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THE

SOLICITORS' JOURNAL

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CURRENT TOPICS

Legal Aid

THE Ninth Report of The Law Society on the Operation and Finance of the Legal Aid and Advice Act, 1949 (H.M.S.O., 4s.), is nearly eleven months out of date. As the Advisory Committee say in their comments and recommendations which as usual are annexed, the Report is being rapidly overtaken by events with the result that the Legal Aid Scheme is in a state of transition with extensions either recently having been made or contemplated at an early date and with the financial conditions in the process of being altered by Parliament. The Advisory Committee have the advantage of being able to write footnotes to the Society's Report: one of these is to the effect that since the Assessment of Resources Regulations were amended last November the average reduction in contribution is about £46, with the result that there are signs of an increase in the numbers of people applying for legal aid, of a larger proportion paying no contribution and of fewer cases being assessed as being outside the limits of the Act. The Council have come out firmly in favour of allowing the successful opponents of assisted persons to have their costs paid out of the Legal Aid Fund. The Advisory Committee do not commit themselves. We have no doubt that the Council are right, but if it were thought that to open the doors completely might be financially hazardous, there would be no objection as a beginning to limiting the power to award costs against the Fund to cases where the successful litigant has suffered or is likely to suffer hardship. Later we could consider giving insurance companies their costs.

One Voice But Not One Speech

Two months ago we ventured to suggest that consideration should be given to the House of Lords varying its practice by delivering only one majority judgment (103 SOL. J. 1011). We are not alone in thinking that such a practice would save much time and space for years to come. The fact that in the case of *Society of Medical Officers of Health* v. *Hope (V.O.)*, reported in this issue (p. 147), only two speeches of length were delivered by the five adjudicating and concurring law lords, has done two things. First, it has given us hope that in time the ideal of one composite majority judgment will be realised; we appreciate that in this particular case LORD KEITH OF AVONHOLM made a particularly valuable contribution in the shape of a paragraph dealing with certain Scottish land valuation decisions; had this paragraph been incorporated in a composite judgment of the court of which Lord Keith

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was a member it would hardly have been less authoritative. Secondly, it caused us to look again at the decisions of their lordships' House reported in our columns this year, in all but one of which unanimous decisions were recorded. Five law lords sat in the cases of *Hochstrasser (I.T.)* v. *Mayes* (p. 30), *Parker* v. *Lord Advocate* (p. 86), *Hamilton* v. *National Coal Board* (p. 106), and *Elmdene Estates, Ltd.* v. *White* (p. 126). Excluding speeches of the "My Lords, I agree" variety, in three of these cases four speeches were delivered and in *Parker's* case five speeches. In *Belfast Corporation* v. *O.D. Cars, Ltd.* (p. 68), two out of the four presiding judges made speeches and in *Public Trustee* v. *Inland Revenue Commissioners* (p. 68), the only case reported by us this year where a dissenting speech has been made, every one of the three law lords holding the majority view made a speech.

Landlord's Veto

AN interesting point was raised by Mr. W. R. WILLIAMS on the adjournment debate in the Commons on 9th February (*Hansard*, cols. 422–30). Mr. Williams drew attention to the fact that a telephone subscriber in the Manchester area was deprived of his telephone at the insistence of the subscriber's landlady. As he needed a telephone in his work his job was thus placed in jeopardy. The removal of telephones from this and other tenants of the landlady is attributed by them to their refusal to purchase the houses in which they live after it became clear that these houses were not decontrolled under the Rent Act, 1957. In reply, the Assistant Postmaster-General, Miss M. PIKE, explained that the Post Office had no option but to remove telephones upon a landlord's request to do so. Under the Telegraph Act, 1863, the Post Office must obtain a landlord's consent before supplying a tenant with a telephone; in practice landlords' written consents are not obtained. A landlord may require the Post Office to remove a telephone under the Telegraph Act, 1892, s. 4. Under the 1892 Act and the Telegraph (Construction) Act, 1916, there is a procedure available under which a county court judge could be asked to consent to a tenant's telephone being kept, or replaced, on the premises if he was satisfied that the landlord's requirement was contrary to the public interest. This particular procedure has never been invoked in a landlord and tenant case because, when the Post Office last, and abortively, took similar proceedings against a private landlord in 1922, it had to apply to the Railway and Canal Commission and thence to the Court of Appeal, where its appeal was dismissed. From Miss Pike's speech it seems that the Post Office is prepared to consider making such an application in the case discussed in the House. We hope that any such application will succeed. Telephone subscribers to-day number over 4½m. as against less than 957,000 in 1922, and it is in the interest of all subscribers—who, with the inmates of their households and offices, constitute a large proportion of "the public"—that as many people as possible may be contacted on the telephone.

Concessionary Travel

WHEN the Birmingham Corporation resolved to introduce a scheme whereby certain classes of old persons should be allowed free travel on the corporation's omnibuses, the Court of Appeal upheld the view of VAISEY, J., that such a scheme was illegal and *ultra vires* (*Prescott* v. *Birmingham Corporation* [1954] 3 W.L.R. 990). In view of this, Mr. EDWARD SHORT introduced a Bill which became the Public Service Vehicles (Travel Concessions) Act, 1955, and, after amendment by the Government of the day, provided that it should be lawful to make travel concessions to "qualified persons" if those or less concessions were being granted at any date in 1954 not later than 30th November. For the purposes of this Act, "qualified persons" included men over the age of sixty-five, women over the age of sixty, blind persons and persons suffering from any disability or injury seriously impairing their ability to walk. Mr. Short has now introduced the Public Service Vehicles (Travel Concessions) Act, 1955 (Amendment) Bill, which would empower any local authority who are operating a public service vehicle undertaking to introduce, increase or extend travel concessions. In other words, it would give local authorities the power which they assumed they had before the decision in *Prescott* v. *Birmingham Corporation*, *supra*.

Abatement of Nuisance

ABATEMENT is "a remedy which the law does not favour and is usually not advisable" (per Lord Atkinson in *Lagan Navigation Co.* v. *Lambeg Bleaching, Dyeing and Finishing Co.* [1927] A.C. 226), but there can be no doubt that it may be a defence to an action for trespass to show that the act was done to put an end to a nuisance to the defendant for which the plaintiff was responsible. The point arose in a recent case in the Halifax County Court. In order to separate his property from that of his neighbour the plaintiff built a brick wall on a yard, a part of his own property, over which the defendant had a right of free access. With the wall in position this right could not be exercised and, in view of this, on the day on which the wall was erected, the defendant knocked it down and stacked it brick by brick outside the plaintiff's home. His Honour Judge KENNAN said that although the wall had been built on the plaintiff's property he was satisfied that the defendant had general rights over the yard in question and therefore that she had been entitled to uphold those rights by pushing down the wall. Accordingly, judgment was entered in favour of the defendant, but this is by no means the first case of its kind. In *Lane* v. *Capsey* [1891] 3 Ch. 411, for example, Chitty, J., held that houses which obstructed a right of way could be pulled down by the persons whose right was obstructed by way of abating the nuisance for themselves. However, in the *Lagan Navigation Co.* case, *supra*, Lord Atkinson stressed that in the abatement of a nuisance unnecessary damage must be avoided and, where there are two ways of abating a nuisance, the less mischievous is to be followed, unless it would inflict some wrong on an innocent third party or the public. In certain circumstances previous notice must be given.

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NEWSPAPERS IN CONTEMPT OF COURT

NEWSPAPERS are often blamed for artificially stimulating public interest in criminal matters for purposes of increasing circulation. This was hardly necessary in the recent *Scottish Daily Mail* case (*Stirling* v. *Associated Newspapers, Ltd.* [1960] S.L.T. 5), which also aroused great interest among members of the Press itself. The editor and publishers of the paper had been ordered to appear before the High Court in Edinburgh in connection with the publication of a photograph of a man who was subsequently arrested within a few hours and charged with the murder of two people, and also of an article in connection with these crimes. Counsel for the accused man complained to the court that the publication of the photograph and the article was likely to cause prejudice to the accused and deprive him of a fair trial, and asked that the newspaper be forbidden from publishing any further article which might be prejudicial to a subsequent trial. The article in question contained statements purporting to have been given by the mother of the accused, by a business associate, and by other persons all of whom might be required to give evidence at the trial of the accused.

"Detained" but not charged

Counsel for the newspaper tendered an unqualified apology in respect of the article and of the photograph, and elaborated on the difficulties facing newspaper editors who had to make a quick decision in such matters. It was pointed out that when publication had been made, there had been no arrest, charge or committal, although the person was "detained" by the police—and it was not always clear what that expression meant. There was in fact no Scottish precedent in such circumstances. Counsel conceded, however, that as the accused had been charged on the day following publication, the photograph and article were close in time to the crucial events of charging and committal.

During the course of the hearing, reference was made to the English system of preliminary hearings before examining justices, which are usually held in open court, and enable the ex parte statements of probable Crown witnesses to be published by newspapers in advance of the actual trial. In an exchange with counsel, Lord Clyde said: "It is to the advantage of the Scottish system that we do not have that. It is no use pointing out bad English precedents to us." In this his lordship was confirming the traditional Scottish view that pre-publication of statements by possible witnesses before trial was likely to prejudice the minds of jurors later called to decide the case. As the Scottish approach is fundamentally different in principle, English precedents must thus be treated with some caution in Scots law.

Investigation by the criminal authorities

The court found the newspaper proprietors and the editor guilty of contempt of court and fined them £5,000 and £500 respectively. In the course of a long judgment the Lord Justice General said:

> "Once a crime has been suspected and once the criminal authorities are investigating it, they and they alone have the duty of carrying out that investigation. If a newspaper arranges an interview with any person in any way involved in the suspected crime and then publishes the results of that interview, or an article based upon it, the newspaper is doing something which in all probability will interfere with the course of justice and hinder a fair trial . . . All these interrogations of possible witnesses should be done by the criminal authorities and not by the Press, and the results should only be published to the world when the ultimate trial takes place. Any independent interviewing of possible witnesses by representatives of the Press while the investigations by the Crown authorities are in progress constitutes interference with the authorities' public duty and will usually impede their investigations."

His lordship also dealt with the publication of photographs and said that, unless the authorities specifically asked for a photograph to be published, the Press must not procure the photograph of any person involved in the investigation and publish it, either during the investigation or during the trial itself, as this might gravely prejudice evidence of identification.

Criticisms of the judgment

This judgment of the court subsequently drew criticisms from many legal quarters and also from M.P.s and newspaper editors, who complained that the law had been obscured rather than clarified, and their responsibilities had become more burdensome than ever. The main criticism has been that the terms of the judgment went beyond what was necessary for the decision of the particular case. Certainly, if passages are read in isolation, and on a strict interpretation, it seems as though no one except the criminal authorities may investigate crimes, and newspapers may not report any details of the occurrence of crimes except on the instructions of the police. There is, however, a public duty of every citizen to report to the police on every criminal activity of which he gains knowledge, and to assist the police in the investigation thereof. It is submitted that what is struck at in the judgment is the investigation of crime by newspapers the results of which are subsequently published either before or during the trial. The judgment should not be read as preventing proper and legitimate inquiries and investigations by such persons as defence solicitors, insurance inspectors or department store detectives, none of whom will make publication of the results of their inquiries, except, in appropriate circumstances, to disclose them to the police.

Close on the heels of the *Scottish Daily Mail* decision comes the case of *Lord Advocate* v. *Editor and Proprietors of the Daily Record*, heard before the High Court of Justiciary in Edinburgh on 12th February, 1960. The Lord Advocate brought a petition alleging contempt of court by that newspaper in that they had published on their front page a photograph of a well known Scottish footballer, along with an article stating that he was to appear in court on certain charges that day. Counsel for the newspaper admitted the contempt, and explained that, in the absence of the editor through illness that night, the decision to publish had been taken by the assistant editor, and this had been an unintentional error made under pressure. The Lord Justice General said that had the editor himself been in charge, a sentence of imprisonment on him would have been "almost inevitable," but in view of his absence through illness the court would discharge him from personal responsibility. The proprietors and assistant editor were fined £7,500 and £500 respectively.

Similarity of English precedents

Despite the aversion of Lord Justice General Clyde to "bad" English precedents, the Scots law of contempt of court follows closely on English law. The High Court of Justiciary, like the superior English courts, have always had an inherent jurisdiction to punish persons who act in contempt

of court (Halsbury's Laws, 3rd ed., vol. 8, p. 3, and Green's Encyclopaedia of Scots Law, vol. 4, p. 433). In both countries it is contempt to publish an article commenting on proceedings in a pending case. This is so in England even where the publishers are ignorant that proceedings have begun against the person in question—*R.* v. *Odhams Press, Ltd.*; *ex parte A.-G.* [1957] 1 Q.B. 73.

The *Scottish Daily Mail* case is similar in many respects to that in *R.* v. *Evening Standard*; *ex parte Director of Public Prosecutions*; *R.* v. *Manchester Guardian*; *ex parte Same*; *R.* v. *Daily Express*; *ex parte Same* (1924), 40 T.L.R. 833, where it was pointed out that it was particularly mischievous for a newspaper to conduct a systematic independent investigation into a crime for which a man has been arrested and to publish the results of that investigation. In both countries, moreover, it is quite improper for a newspaper to carry on a "trial" of its own while or before a proper trial is conducted in one of the regular courts—*R.* v. *Parke* [1903] 2 K.B. 432.

Publication of a photograph of an accused man before trial has also been held in England to be contempt of court, particularly where it is reasonably clear that a question of identity may arise and where publication is calculated to prejudice a fair trial (*R.* v. *Daily Mirror*. *R.* v. *Daily Mail*; *ex parte Smith* [1927] 1 K.B. 845).

Preliminary hearings in private

The conclusion to be drawn from the recent Scottish cases is that both countries apply the same broad principles in dealing with questions of contempt of court but with one distinctive difference. Perhaps the most interesting question raised for English lawyers is whether the system of preliminary hearing before examining magistrates is as fair as is generally supposed. One of the main purposes of the hearing is to let the accused know the nature of the case against him, and what the evidence is to be. But, in many cases, the advance publicity given to witnesses' statements is bound to be prejudicial, especially when, as often happens, the accused reserves his defence and gives no answer to the charges at that stage. In Scotland, the only preliminary hearing is the pleading diet, when no evidence is led and the accused merely indicates whether he will plead guilty or not guilty. The Crown prosecutor will furnish defence solicitors with a list of the Crown witnesses on request, and in murder cases, where the accused is without funds, the Advocate Depute who is prosecuting for the Crown has a discretion to let defence counsel have a sight of the statements given by Crown witnesses.

It should not be forgotten that s. 4 (2) of the Magistrates' Courts Act, 1952, permits the court to take the preliminary hearing in private if that is thought desirable. It is submitted that, if this section were to be applied generally, the present advantages of the preliminary hearing system could be retained, but without any risk of prejudice to the accused by the publication of the evidence of witnesses before the actual trial takes place.

N. G.

JURISDICTION OVER CHILDREN

In a recent custody application in the Divorce Division a pathetic document was exhibited to one of the affidavits: the incoherent plea of a seven-year-old girl, living unhappily with her father and his brand-new youthful wife, that her mother should take her away, which ended: "When will they tell me where I'm going? Who decides these things, anyway?"

Anything which adds a single ounce to the millstone round the necks of children in a society already made uneasy enough for them by its approbation of the married state at the expense of the family is to be deplored. The recent Report of the Committee on Conflicts of Jurisdiction Affecting Children (Cmnd. 842) is therefore welcome—although (Mr. Michael Albery *dissentiente*) the committee regards its terms of reference as excluding any recommendation for major changes in the substantive law—since it examines with care the anomalies of the law relating to children in the various parts of the United Kingdom which lead to situations, often ludicrous and sometimes tragic, involving families whose members have access to more than one jurisdiction.

The main conflict arises between the jurisdiction of the English and Scottish courts; there is little trouble with the courts of Northern Ireland, partly no doubt because the sea is a deterrent to "legal kidnapping" and evasion, but mainly because the jurisdiction assumed by the courts of Northern Ireland is similar to that of our own. However, there is no reciprocal enforcement of any orders relating to children (other than maintenance orders) between any of the three separate jurisdictions which make up Great Britain, and it is chiefly this absence of any powers of enforcement of "foreign" orders which has been highlighted by the wardship *causes célèbres* which have recently occupied a considerable acreage in the Press. Even in an earlier age such a situation was ridiculous, especially as between England and Scotland, for the judgment of the court could be flouted by a well-planned use of post-horses almost before the final words of the judgment had been delivered—certainly before the Court of Chancery had put pen to paper to draw up the order—while to-day the reluctant ward can be across the border in an aeroplane in the time it takes her would-be guardian's solicitors to brief counsel.

It may be wondered why it is that two countries as close to each other as England and Scotland should tolerate a legal anachronism which can so easily bring the law in both countries into disrepute. It could not have been allowed to persist in the criminal law: why should family law perpetuate such anomalies? The result is, as the report points out, that embittered husbands and wives often use these collisions of jurisdiction to their own ends, which often do not include the welfare of their children. The fundamental reason for the conflict is that the Scottish courts, while technically having a protective jurisdiction over all children physically present in Scotland, base their jurisdiction pre-eminently on domicile of the father of the child, whereas the English courts found jurisdiction to all intents and purposes on residence. Furthermore, there are no wards of court in Scotland and the Court of Session's power to make custody orders is limited to children under the age of sixteen.

English jurisdiction based on residence

It would be wise to qualify the statement that the English courts base their jurisdiction on residence. While it is true that in the divorce court the domicile of the father is, with certain exceptions, the test of jurisdiction, in practice the

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court will rarely make an order where the child is resident outside the jurisdiction. Chancery jurisdiction, being based on the Sovereign's protection of all persons within the realm, wherever domiciled and of whatever nationality, naturally takes no note of domicile. Habeas corpus proceedings in the Queen's Bench Division may be taken in relation to any child whose physical presence is within the realm. The powers given to magistrates by the Guardianship of Infants Acts, 1886 and 1925, give them jurisdiction over any child up to the age of sixteen if either the child, the complainant or the defendant resides within the district of the court or, if the father resides in Scotland or Northern Ireland, if the mother resides within the jurisdiction. In the county court (a procedure rarely used) orders may be made relating to children residing in the district or where either the applicant or respondent resides, but there is no jurisdiction where the father lives in Scotland or Northern Ireland.

The result is that the courts of both Scotland and England may claim jurisdiction over the same child, make different orders about the child, and produce an impossible situation for everyone concerned. Although this rarely happens, the committee found that the threat of "legal kidnapping"—carrying a child over the border to gain the advantage of another jurisdiction—has "led to tension and unhappiness for children and their parents and to the acceptance under duress of terms which otherwise could have been effectively resisted."

The remedy proposed

The committee did not feel that the obvious and simple solution, the adoption of a common exclusive jurisdiction based on either domicile or residence, would be in the best interests of the children and it proposes that there should be a pre-eminent basis of jurisdiction based on "ordinary residence." This test should not, it is suggested, exclude the usual basis of jurisdiction of the court unless the circumstances demand it; there should be no rigid definition of "ordinary residence" such as a qualifying period, and where the residence of the child is uncertain physical presence should be sufficient to give the court jurisdiction. Presumably the same rules of construction would apply as in the interpretation of the Income Tax Act, 1952, and other statutes; the committee considers that the problems of interpretation and the difficulties of proof would be "much less formidable than those arising in domicile cases." Mr. Michael Albery here parts company with the other members; in his opinion the test should be the last joint home of the parents in the United Kingdom, thus avoiding the difficulties of construction which must arise from the use of the term "ordinary residence," and which are enhanced where children are concerned because the element of intention may well be incapable of proof.

Enforcement and procedure

It should not be beyond human ingenuity to frame legislation which would bring custody proceedings into line with orders for financial support and the committee recommends that something similar to the Maintenance Orders Act, 1950, should be available to cover all orders affecting the care and upbringing of children. The procedural suggestions are mainly directed towards bringing Scottish law closer to our own, in such matters as the hearing of applications relating to children in private, and the extension of custody jurisdiction to the Outer House of the Court of Session.

Note of dissent

Mr. Albery's opinion that ordinary residence would fail as a test for jurisdiction is based on some very cogent reasoning which is set out at the end of the report. With respect to the other distinguished members of the committee, his conclusions appear on their face to be unanswerable. The gravest difficulty he sees is that litigants might be shut out from justice, or at least their remedy might be delayed by lengthy arguments on a preliminary point of law, in the very type of case where a swift decision is most important. Instead of dispelling doubt and speeding justice the adoption of this test would inevitably in some cases produce legal problems to be decided before the merits of the case could be gone into. It might also encourage "legal kidnapping," since a parent could remove a child to a residence in a more favourable jurisdiction. The test of "the last joint home in the United Kingdom" has the merit of immutability—it is a fact capable of proof in the ordinary way, which cannot be altered to suit the supervening needs or desires of the parties—and it avoids the difficulty of dual residence which must arise when a child is at boarding school in one country and spends the holidays, or part of them, in another.

It seems likely that some of the committee's recommendations, such as reciprocal enforcement of orders, will be put into practice, but it is difficult to see how the main proposition relating to jurisdiction can be made to work. If anything is to be done, it is to be hoped that Mr. Albery's dissenting voice will not have been raised in vain.

MARGARET PUXON.

"THE SOLICITORS' JOURNAL," 18th FEBRUARY, 1860

ON the 18th February, 1860, THE SOLICITORS' JOURNAL reported: "A very extensive robbery has taken place at Bacon's Central Hotel, Great Queen Street, Lincoln's Inn Fields, the perpetration of which was effected in a most daring manner. Mr. Leeman, the eminent solicitor of York, was robbed of a large sum of money in notes and gold, as well as several articles of jewellery which were deposited in a box in his bedchamber. On retiring at night he locked his door, keeping the key in the lock, and on rising in the morning discovered that the room door had been unlocked from the outside in a very skilful manner, and the money and other property abstracted. Other bedrooms in the occupation of gentlemen had been robbed in the same manner. The police have been most active in their exertions to trace the depredator, but at present without success, although some clue has been gained; for on a search being made a very curious and ingeniously made instrument resembling a pair of tweezers was found, by which, on being tried, it was discovered that the doors could be unlocked from the outside; and, although the key remained in the lock on the inside, the instrument tightly grasping the point of the key caused the bolt to . . . yield."

Honours and Appointments

Mr. WILLIAM CLARKE CARTER, solicitor, of London, has been appointed chairman for 1960–61 of the Rotary International District No. 113.

Mr. DEREK B. CHARLICK, solicitor, and deputy town clerk of Crewe since 1955, has been appointed town clerk of Stratford-upon-Avon in succession to Mr. T. E. Lowth.

"The Solicitors' Journal"
Friday, February 19, 1960

INVESTMENT IN UNIT TRUSTS—II

HAVING described the constitution and working of unit trusts in the first of these two articles (p. 115), we can now go on to discuss certain matters upon which a client who wishes to invest in unit trusts may well ask his solicitor to advise him.

Security

Why are unit trusts a safer medium of investment for the small investor who cannot risk a serious loss of capital than the ordinary shares of industrial or commercial companies? The answer is simple. An investor in a unit trust is a part owner of all the investments comprised in the trust fund, and, because these investments are numerous, a fall in the value of one or a few of them will have but a small proportionate effect on the value of the trust fund as a whole, and consequently on the value of each unit of the trust. This holds good, of course, only if the trust fund consists of high class industrial or commercial securities, and it is a wise precaution to check through the list of permissible investments set out in the trust deed (and often also in advertisements issued by the managers) to ensure that the number of "blue chip" investments predominates decisively over second-grade securities, particularly where the advertised yield of the trust fund exceeds the current average of 3 per cent. It should also be borne in mind, of course, that the security of an investment in even a good unit trust is no greater than that of the ordinary shares of the largest industrial concerns which even a severe slump could not shake, and the average yield on units of a unit trust at present is slightly below that of such ordinary shares.

Growth

The principal reason for the popularity of unit trusts during the last few years has been the desire of small investors to share in the general increase in ordinary share values. Three or four years ago these increases merely reflected the effect of inflation, which so seriously diminished the value of fixed interest securities, but over the last two years, when price levels have kept stable, the consistent increase in the value of equities has resulted from higher profits and general prosperity. The pessimist will, of course, say that share values have now reached their highest point and a fall is bound to come soon, particularly as the yield on equities has for six months now been less than that on gilt-edged. If the pessimist is right, the value of units of unit trusts will fall correspondingly, and the intending investor should be warned of this. But if it is any comfort to him he may also be told that, if another bout of inflation did come, which even at present is possible as a repercussion from trends in the economy of the United States, his units would hold their value far better than fixed interest securities would do.

The managers of unit trusts quite understandably make a big advertising point of the growth in the value of the units of their trusts since the early post-war years, and one not infrequently reads that units bought at the original issue price at that time are now yielding 9 or even 12 per cent. A useful and sobering exercise, however, is to compare the growth in value of units of the trust with an index of ordinary share values, such as that of the *Financial Times*. Often the performance of the unit trust is better than the index, but not always so.

One unit trust at least has a provision in its trust deed for the accumulation of part of the income of the trust and its addition to the capital of the trust fund. This trust consists mainly of growth stocks whose current market value reflects future expectations rather than present yield, and the accumulation condition is an additional "built-in" provision to ensure capital growth at the expense of current income. Such trusts should be of particular interest to surtax payers. The accumulation provision has been held to be outside the Law of Property Act, 1925, s. 164, which limits the duration of directions to accumulate income, and so may operate during the whole life of the trust, and not merely for its first twenty-one years (*Re A.E.G. Unit Trust (Managers), Ltd.'s Deed* [1957] Ch. 415).

Yield

All advertisements issued by the managers of unit trusts must state the current yield from units, calculated in the way prescribed by the Board of Trade, that is, by taking the net income of the trust (exclusive of bonus shares and the value of rights offers made in connection with the investments comprised in the trust), by deducting therefrom the manager's annual or semi-annual service charge (dealt with below), and by grossing up the balance at the rate of income tax appropriate to the trust, which will be the standard rate of tax except where double taxation relief applies. The net income of the trust for this purpose is taken to be that paid or payable in respect of the investments comprised in the trust for the last complete financial year of the company in which each investment is held. Consequently, the advertised yield is a useful but not a completely reliable guide as to the yield of units in the future.

Dividends

The income of unit trusts is distributed to unit holders half-yearly subject to deduction of income tax at the current standard rate. Two points arise in connection with the deduction of tax.

The first concerns the dividend equalisation fund. If the managers issue units during the current half-year of the trust at a time when cash dividends have already been received in respect of the trust's investments, the allottee will pay as part of the issue price an appropriate fraction of the amount of such dividends (i.e., the amount of the dividends is added to the value of the trust fund to ascertain the issue price). But the dividends have been received by the trust fund net after deduction of tax by the companies which paid them, and so, on the next distribution of income of the trust, the allottee receives back the fraction of the price he paid for his units attributable to such dividends without any further deduction of tax, and in the meantime that fraction is credited in the books of the trust to an income or dividend equalisation fund.

The second point concerns double taxation relief. If the trust fund comprises investments in companies which are entitled to double taxation relief, the dividends paid by the companies to the trust and the income distributions made by the trust to the unit holders will nevertheless be paid subject to deduction of tax at the current standard rate. But because the company has paid the Revenue tax at a lower rate than the standard rate, claims for repayment of tax by unit holders whose income is not high enough to make them taxable, or who are entitled to reduced rate relief, is restricted to the net rate of tax paid in respect of the dividends received by the trust fund (i.e., the tax paid by the companies to the Revenue

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with the benefit of double taxation relief, apportioned in respect of the shares of such companies comprised in the trust, and divided by the total income of the trust grossed up at the current standard rate of tax). Particulars of this net rate of tax are given with the dividend warrants issued to unit holders.

Purchase of units

Units may be purchased from the managers of a unit trust at the current issue price published daily in the financial Press. Additionally, some managers make block offers of units periodically by advertisement in the Press and by circulars. The advantage to an investor of subscribing under a block offer is that the offer fixes the maximum price chargeable for units while the offer is open, whilst if the current daily price of units falls below that maximum, units will be issued at the lower current price. A small commission is usually paid by the managers to solicitors who send in applications for units bearing their stamp.

Cost of investing in unit trusts

The small investor will always be interested to know how much more it will cost him to invest in a unit trust than to invest in the ordinary shares of one particular company. Except where the sum invested is very small, it will, of course, cost him more to invest in a unit trust, because in addition to stockbroker's commission and transfer stamp duty (which form part of the issue price of units) there will also be an initial and an annual or semi-annual service charge payable to the managers of the trust, the initial service charge forming part of the issue price of the units, and the annual or semi-annual charge being paid out of the income of the trust fund, or in some trusts out of the capital of the fund. The Board of Trade will not authorise a unit trust, however, if the annual or semi-annual charge exceeds ½ per cent. of the value of the trust fund per annum, nor if the total of the initial and annual or semi-annual charges exceeds 13¼ per cent. for a trust of twenty years' duration, or a proportionately higher amount for trusts of longer duration. Consequently, the usual arrangement for a trust of twenty years' duration is either an initial charge of 3 or 3¼ per cent. and a semi-annual charge of ¼ per cent., or an initial charge of 5 per cent. and a semi-annual charge of 3/16 per cent. The investor should remember, however, that for these comparatively small charges he gets the benefit of the management of the trust by the managers, and the managers also have to meet out of the charges all the expenses of the trust, apart from the incidental expenses incurred in acquiring investments for the trust fund, but including the trustees' remuneration.

Saleability of units

A register of unit holders is kept by the trustee of the unit trust, and units may be transferred by a registered transfer in the same way as shares in a company. The market for units is always a narrow one, and so trust deeds always give unit holders the right to require the managers to repurchase his holding at its current value, and the Board of Trade requires such a provision to be inserted if the trust is to be granted authorisation. The current value of each unit for this purpose is the total amount which jobbers would pay for the investments comprised in the trust fund at current market "bid" prices (less stockbrokers' commission payable on such a sale) plus any cash in the trust fund, divided by the number of units issued or available for issue. The re-purchase price as well as the issue price of units is published daily in the financial Press, and is, of course, the lesser of the two prices quoted.

It is now possible for a unit trust to obtain a quotation for its units on the London Stock Exchange, but only one series of trusts has at the present time a quotation. The value of a stock exchange quotation is, of course, that members of the stock exchange may deal in the units, thus creating a wider market. In the case of the other trusts which have not obtained a quotation, practically all sales of units are to the managers under the option given to unit holders by the trust deed.

Termination of a unit trust

Unit trust deeds always limit the duration of the trust, usually to a period between twenty and twenty-five years. At the end of that time the investments in the trust fund are either distributed *in specie* to unit holders, or are sold and the proceeds of sale distributed among them. It is usual for the trust deed to empower the managers to continue the trust for an extended period, however, either on their own initiative or with the consent of a certain fraction of unit holders.

The future

In 1939, the value of the investments comprised in unit trust funds was £90m.; a year ago it was £110m.; to-day it is £200m. The unit trust movement is realising with increasing success the ambition to spread the ownership of industry and commerce as widely as possible and to give even the smallest investor a stake in the country's prosperity. If economic conditions remain the same as they are now, the 1960's could well see the portfolios of unit trusts grow to ten times their present size, and unit holders to ten times their present number.

(*Concluded*) R. R. PENNINGTON.

Personal Notes

The golden wedding of Mr. ARTHUR EVANS, solicitor, of Sandbach, and Mrs. Evans, was celebrated in January.

Mr. KEITH IAN BENTLEY YEAMAN and Mr. STEUART BOX BERNARD have been taken into partnership by Messrs. Rickerby, Mellersh & Co., solicitors, of Cheltenham, as from 1st February, 1960. The name of the firm is unchanged.

Obituary

Mr. JOHN LINDOW CALDERWOOD, C.B.E., solicitor, of Swindon, died on 7th February, aged 72. He was admitted in 1912. Mr. Calderwood was chairman of Wiltshire County Council from 1949 to 1957.

Mr. PERCIVAL TOM CURRIE, solicitor, of Birmingham, for more than fifty years, died on 30th January, aged 74. He was admitted in 1909.

Mr. OSWALD ARTHUR HEMPSON, solicitor, of London, died on 5th February, aged 73. He was admitted in 1909.

Mr. SYDNEY LEADER, solicitor, of Newbury, died on 2nd February, aged 87. He was admitted in 1895. Mr. Leader was a member of the Berks, Bucks and Oxon Law Society, and he was also the longest admitted solicitor in Berkshire.

Wills and Bequests

Mr. WILLIAM WICKHAM KING, retired solicitor, of Ottery St. Mary, Devon, left £57,319 net.

Mr. N. P. LEE, solicitor, of Westminster, London, left £23,487 net.

Col. C. F. W. DIMOND, solicitor, of Chichester, left £50,848 net.

County Court Letter

IN THE RED

LET us suppose, for the sake of argument, that you have just touched down after a transatlantic flight in a Comet IV. To celebrate your arrival, you perform your well-known trick of tossing a lighted cigarette into the air and catching it in your mouth. Only this time, you do not. Before you can say "De Havilland" it has disappeared through one of those little holes in the floor that all aircraft, even Comet IV's, seem to have, into that mysterious area full of wires and cables and pipes of all shapes and sizes and of the very greatest importance. This particular little hole also happens to contain a healthy-sized pocket of something highly inflammable, so that in next to no time at all the aircraft is a mass of flames.

There is no panic; the stewardesses behave like heroines; the captain is a model of calm, just like the newspapers say; everyone gets out a lot quicker than they got in, and there is no loss of life. But you are duly sued by B.O.A.C. for a quarter of a million pounds and judgment is given against you with costs.

Not having a quarter of a million pounds on you at the time, the only thing for you to do is to file your petition in bankruptcy. If you live outside London you will probably do this at a county court, though it may not be your nearest one. Section 96 of the Bankruptcy Act, 1914, confers bankruptcy jurisdiction on all county courts, but it goes on to say that this jurisdiction can be removed from any court and attached to any other court by the Lord Chancellor, and this has been done in a very large number of cases. Where jurisdiction has not been so removed, a county court has powers almost exactly similar to the High Court.

Of course, if you do not file your own petition the chances are that B.O.A.C. will issue a bankruptcy notice against you. If you live in London, this again will be done in the High Court, but if not, it will probably be issued in the county court having jurisdiction over the area in which you have resided for the greater part of the last six months. If you do not comply with this within the statutory period, a bankruptcy petition will follow.

Getting in

Of course, failure to comply with a bankruptcy notice is not the only act of bankruptcy—see s. 1 of the Bankruptcy Act, 1914—but it is just about the only one met with in practice in the county court. Some 99 per cent. of all creditors' petitions are founded on this, and some 20 to 25 per cent. of all bankruptcy notices lead to receiving orders. Fleeing the country, or suffering execution occasionally crop up, but it is upon the bankruptcy notices that the vast majority of petitioning creditors rely.

The next step in the proceedings will be the hearing of the petition by the registrar. At this you may be disappointed to discover that he is not only concerned with your debt to B.O.A.C. You may have come to an amicable agreement to pay them at the rate of £10,000 per month, and they may even wish to withdraw their petition, but what he wants to know is—are you solvent? That, very simply, means, can you discharge your debts as they fall due? If you cannot, and cannot make any reasonable proposals for doing so without simply creating other liabilities, a receiving order will almost certainly be made against you, though there may be one or more adjournments to give you every chance of working out your salvation.

Bankruptcy proceedings, it is often said, are not a means of collecting debts, but are designed to protect the public against improvident debtors. As an official receiver once pointed out to counsel for the debtor at a public examination, he is the watchdog of the public. That counsel subsequently insisted on referring to him as the "official retriever" is beside the point.

The receiving order will be followed by adjudication in due course, whereupon your assets will vest in your trustee in bankruptcy. You can, of course, oppose an application for adjudication but s. 18 of the Act says that the court "shall" make an adjudication order if the creditors at their first meeting or any adjournment so resolve, or pass no resolution, or do not meet, or if a scheme of composition is not duly approved. However, in *Re Fletcher, a debtor; ex parte Fletcher* v. *Official Receiver* [1956] 1 Ch. 28 (C.A.), it was decided that "shall" is not absolutely compulsive, and the court still has a discretion in the matter. Obviously this will very rarely be used, though there might on occasion be good reason for adjourning the application (*Boaler* v. *Power* [1910] 2 K.B. 229, at p. 232).

Coming clean

If you attend on the official receiver when required, do not try to disappear, file a statement of affairs, and generally behave yourself, your next contact with the county court will be at your public examination, when the story of your financial life will be extracted from you by the official receiver, your trustee in bankruptcy and your creditors. Should the registrar look bored during this harassing experience, it will probably be because he is. He has heard it all, or something very like it, many times before. His function is the purely passive one of listening to your evidence, and if necessary intervening should you or the official receiver get off the rails. Registrars have been known to do chess puzzles, write letters, and get up to date with their *Weekly Law Reports* during public examinations, but cunning official receivers sometimes whip in a fast submission to see if they are awake. This is frequently in the form of an application that the examination be adjourned *sine die* on the grounds that the debtor has failed to account for some of his assets. As a result of such an order, is that the debtor cannot get his discharge until he himself has re-opened the examination and satisfied the court that he has in fact concealed nothing; this is a serious matter for him and the registrar has to be fully satisfied that the step is necessary.

Normally, at the end of the hearing the examination will be closed, subject to the signing of the note taken by the shorthand writer, and you will probably begin thinking of applying for your discharge. You can do this at any time after adjudication, but common sense suggests that a decent interval should be allowed to elapse. In any case, unless you have paid 10s. in the pound or more your discharge is certain to be suspended, though possibly not for a long period. You may also, as a condition of discharge, be made to submit to judgment for some part of your debts to be paid out of future earnings.

Professionals and amateurs

Bankrupts are of course under disabilities in respect of obtaining credit, trading, and so forth, though there are those who seem to find them of little inconvenience. Some, failing

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in a particular line of business, perhaps not for the first time, are immediately employed by their wives in an identical business, with the result that the latter also fail in due course. These are the more or less professional bankrupts and represent perhaps 15 per cent. of all cases. Another 15 per cent. or so are people like yourself who are simply and genuinely unlucky. The balance are the optimists of varying degrees of incurability who always expect to be able to pull things together in the future, and usually borrow from friends and relatives to keep things going as long as possible. They invariably attribute their failure to " lack of capital," which being interpreted means drawing too much from the business. Their wives always own the house, the furniture, and anything else of any value. In about half these cases some degree of naughtiness, such as not keeping proper books, not buying national insurance stamps, or fiddling hire-purchase agreements, creeps in towards the end of the story. Among the other half of this class can be found those rare but refreshing types who see the red light, face the music, and file their own petitions.

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J. K. H.

Practical Conveyancing

LIABILITY FOR RATES

OCCASIONALLY, it is useful to examine the reasons for actions we take frequently in practice. One matter about which many solicitors seem to be uncertain is the ultimate liability for payment of the ordinary general rate. Payments are sometimes made, and undertakings against liability are given, without regard to the statutory rules.

The Rating and Valuation Act, 1925, s. 4, provides in effect that rates are payable by occupiers. The Act does not impose any charge against the property itself, and so they must be recovered from the person who is the occupier at the time when they are due. It follows that arrears of rates cannot be recovered by the local authority from a subsequent occupier, for example, a purchaser of a building. Thus, it has been decided that a receiver appointed by a mortgagee is liable only for rates as from the date of his appointment and cannot be sued for arrears then due either as a common-law debt or as damages for breach of a statutory duty (*Liverpool Corporation* v. *Hope* [1938] 1 K.B. 751).

Section 4 (4) of the 1925 Act contains provision for apportionment on change of occupier. A person who is in occupation for part only of the period in respect of which the rate is made is, in general, " liable to be charged with such part only of the total amount of the rate as the number of days during which he is in occupation bears to the total number of days comprised in the said period " (ibid., s. 4 (4) (*a*)). At first sight, s. 4 (4) (*c*) might be thought to be an exception to this rule, but in fact it does not adversely affect the interests of a person who goes out of occupation during the rating period. It provides that a person who occupies at any time after the rate is made is, in the first instance, liable to pay (i) the whole rate if he occupied at the beginning of the period or (ii) (if he came into occupation subsequently) a proportion of the rate calculated on the basis that he will remain in occupation until the end of the period. Thus, the primary liability on an occupier is to pay rates up to the end of the period. The paragraph also states, however, that if the occupier in question ceases to occupy before the end of the period he may recover from the rating authority any sum paid by him in excess of the amount properly apportioned against him in respect of the time he was in possession " except in so far as he has previously recovered the sum from an incoming occupier."

On sale of premises with vacant possession there is no difficulty. The purchaser is not liable for arrears and so it is not necessary to call for evidence that the general rates have been duly paid. If the vendor has already discharged the sum due for the whole of the current period the parties may choose either (i) that the purchaser (on receiving evidence of the payment) should pay to the vendor an apportioned part or (ii) that no arrangement is made between them. On adoption of the second alternative, the vendor may recover from the rating authority the sum overpaid by him and the purchaser will be appropriately assessed. In practice, this is usually the better course of action because almost invariably there is some period during which the premises are unoccupied and, in consequence, the full rate fixed for the period need not be paid.

Rating of owners

There are two grounds on which the owner may be assessed to the general rate. The first is where the rating authority have so resolved as regards a class of hereditament defined by reference to a relatively low rateable value and (if the authority so decide) by reference to the interval at which rent is payable (Rating and Valuation Act, 1925, s. 11 (1), as amended). If this has been done the owner is rated, but is entitled to a percentage allowance. Secondly, s. 11 (2) enables the owner of a hereditament the rent of which is payable at intervals shorter than quarterly to undertake to pay the rates or to collect the rates from the occupier, in return for a percentage allowance. An owner who, in pursuance of s. 11 (1), is rated, or, by an agreement made by virtue of s. 11 (2), has undertaken to pay, or collect, the rates, is liable for the amount of the rates and they are recoverable in the same way as if he was occupier.

In order to draw a conclusion as to the effect of these rules it is necessary to note the consequences of a failure by the owner to pay. In addition to the normal remedies of the rating authority there are several unusual ones. In the first place the occupier may pay the rates and deduct the amount from rent due or accruing due (Poor Rate

Assessment and Collection Act, 1869, s. 8, incorporated by the Rating and Valuation Act, 1925, s. 11 (7)). If he does not do this the rating authority may recover the rates by distress from the occupier, but only to the extent of rent actually due by the occupier, who may, in turn, deduct from the rent the amount levied (1869 Act, s. 12, which is also incorporated in the 1925 Act). Even more effective is the power given to the rating authority by the Rating and Valuation Act, 1925, s. 15, to serve notice of arrears of the rates on the tenant requiring him to pay all rent (including arrears thereof) to the rating authority until the arrears have been paid.

Thus, if the owner is rated, either compulsorily or by agreement, the rating authority may be able to enforce a remedy for arrears such that the sum will eventually be recovered from the owner. It follows that if premises have a rateable value less than £18 (now fixed as the maximum for compulsory rating of owners), a purchaser should inquire whether the owner is, by resolution of the authority, liable to pay the rates. Similarly, if rent is payable at intervals shorter than quarterly a purchaser should ask whether he has entered into a "compounding agreement." On receipt of an affirmative answer to either question, the purchaser would be wise to call for evidence that there are no arrears of rates, otherwise he may eventually be compelled to suffer a corresponding reduction in rent.

On the other hand, if the property is let but the owner is not liable to pay the rates there is no ground on which liability can fall on a purchaser and so no inquiries are necessary.

Water rates

The liability for water rates is very similar to that in respect of the general rate. Local legislation appears to contain some exceptions, but the general rule is that the water rate is payable by the occupier (Water Act, 1945, s. 38 (2)). In certain circumstances the supply can be cut off on account of arrears, but a subsequent occupier cannot be deprived of supply until arrears due from a former occupier are paid (*Sheffield Waterworks Co.* v. *Wilkinson* (1879), 4 C.P.D. 410). Consequently it does not seem necessary for a purchaser to ask as to the state of the account.

Again there is provision enabling the statutory undertakers to require owners of premises of low rateable value to pay the rate for supply of water (Water Act, 1945, Sched. III, para. 54). In these cases an instalment of the water rate may be recovered from the owner for the time being or (subject to certain limits) from the occupier for the time being (who may in turn deduct the amount from rent payable). It has been decided that a purchaser, because he is "owner for the time being," can be required to pay arrears which accrued before the date of his purchase (*East London Waterworks Co.* v. *Kellerman* [1892] 2 Q.B. 72). It follows that, although the sums involved are usually small, it might be advisable on purchase, for example, of houses of low rateable value which are subject to tenancies, to ask whether the owner is liable to pay the water rates and, if he is, to obtain evidence that there are no arrears.

J. Gilchrist Smith.

Landlord and Tenant Notebook

TWO NOTICES TO QUIT FARM

The restrictions on operation of notice to quit contained in the Agricultural Holdings Act, 1948, s. 24, provide for two kinds of notices by landlords: notices which do, and notices which do not, state either one of three facts or one of a number of reasons. A tenant who receives a plain notice may serve a counter-notice conditionally annulling the notice to quit, i.e., rendering it ineffective unless the Agricultural Land Tribunal consents to its operation. A tenant who receives a notice stating any of the three specified facts or referring to any of the specified reasons may require the question to be determined by arbitration, and the operation of the notice to quit is then suspended until the termination of the arbitration (s. 26; Agricultural Land Tribunals and Notices to Quit Order, 1959, art. 8).

Mistakes made by both parties produced something like a tragedy of errors in *French* v. *Elliott* [1960] 1 W.L.R. 40; p. 52, *ante*.

The plaintiffs were landlords, and the defendant their tenant, of a farm held on a Lady Day tenancy, and the several steps taken by the plaintiffs towards terminating the tenancy were all based on s. 24 (2) (*d*) of the Act. It is the first subsection which provides for suspension of a plain notice by counter-notice: the second subsection then says: "The foregoing subsection shall not apply where . . .", and then follow seven paragraphs, (*a*) to (*c*) specifying facts, and (*d*) to (*g*) reasons or sets of reasons. (It might have been more seemly to make (*g*), the death of the tenant with whom the contract of tenancy was made, a fact rather than a reason.)

Paragraph (*d*) might be called the *locus poenitentiae* paragraph. It runs—

> "At the date of the giving of the notice to quit the tenant had failed to comply with a notice in writing served on him by the landlord requiring him within two months from the service of the notice to pay any rent due in respect of the agricultural holding . . . or within a reasonable time or within such reasonable period as was specified in the notice to remedy any breach by the tenant that was capable of being remedied of any term or condition of his tenancy which was not inconsistent with the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry, and it is stated in the notice to quit that it is given by reason of the matter aforesaid."

The tenant is to be given another chance, as it were; and to obtain possession via this paragraph calls for the service of two documents. In fact, the plaintiffs in *French* v. *Elliott* served four.

Two preliminary notices

On 8th September, 1956, they served a notice requiring the defendant to remedy, within two months, alleged breaches of covenant to thatch buildings and cut weeds. On 5th October they served one requiring him to pay some overdue rent within two months, which reached him on 6th October.

Rent of £115 had become due at Michaelmas. It will be observed that a notice demanding rent is less likely to lead to argument than one calling for the remedying of a breach, when the interpretation of the term or condition, the question of its inconsistency with the fulfilment of good husbandry

obligations, the reasonableness of the time which was allowed or has elapsed, may easily be put in issue. I do not suggest that there could never be an arbitration where non-compliance with a rent demand is relied upon. Even a notice to quit based on para. (*g*) could raise such questions as whether the person alleged to have died was the original tenant, whether he had died, whether the death had occurred within the required three months of the serving of the notice to quit, etc.

Two notices to quit

When the two months of the first notice had expired, the landlords served a notice to quit on the ground that it had not been complied with. The tenant's reaction was to require all questions arising under that notice to be determined by arbitration under the regulations made under s. 26 (1). The regulations then in force were the Agriculture (Control of Notices to Quit) Regulations, 1948 (since replaced by the Agricultural Land Tribunals and Notice to Quit Order, 1959), and reg. 7 suspended the operation of that notice to quit until the termination of the arbitration (now art. 8 of the new order).

The landlords did not, however, proceed to arbitration; neither did the tenant. The landlords may even well have thought, with Macbeth, "We have scotch'd the snake, not killed it," and that if the tenant did not make the payment of overdue rent demanded they would be in a position to deliver a blow more likely to kill the tenancy. When their agent left his office at 5.30 p.m. on 6th December, no money had arrived; whereupon he wrote to the tenant saying that he was sending him a further notice to quit by reason of the fact that the rent had not been received by the end of normal office hours, and enclosed a notice to quit, dated 6th December, which stated that it was given on two grounds or for two reasons: failure to comply with the 5th October rent demand, and failure to comply with the 8th September thatching and weeding demand.

Two false moves

The next thing that happened was the service of what purported to be a s. 24 (1) counter-notice by the tenant, sent on 4th January, 1957. Then, on 17th January, the plaintiffs sent to the Ministry of Agriculture, etc., a form of application for the appointment of an arbitrator, enclosing a copy of the 6th December, 1956, notice to quit, and referring to an alleged application by the tenant for arbitration on the reasons.

Both were held to be nullities: the counter-notice because no plain or ordinary notice to quit had been served; the application because the tenant, though he had served a notice in respect of the notice to quit of 13th November (breaches of covenant) had not served one in respect of that of 6th December (rent arrears).

Not unnaturally, complications followed. The Ministry announced its intention of appointing an arbitrator to decide all questions arising out of the 6th December notice to quit. The defendant's solicitors wrote to the Ministry pointing out that the defendant had never served any notice in respect of that notice to quit, and that the Minister could not, therefore, appoint an arbitrator. Some argument ensued on this point, but the appointment was made: the plaintiffs then sought to withdraw the application for the appointment, and the Minister replied that he had no power to "revoke" the appointment—as Paull, J., observed, the question was whether he had had power to appoint, which he had not had!

In the result, when the plaintiffs sued for possession on the expiration of the notices to quit, the learned judge held that he must disregard anything that had happened after service of the notice to quit of 6th December. But some points called for consideration.

Two reasons

The position was that a notice to quit, that of 6th December, 1958, had cited two reasons, one bad (the failure to comply with the thatching and weed-cutting notice—referred to arbitration) and one good (the non-payment of rent). It was argued that the giving of the notice requiring arbitration not only suspended the operation of the 13th November notice to quit but also prevented the notice to quit of 6th December from operating until the arbitration had been held.

It was said, according to Paull, J.'s judgment, that there was no authority which threw any light on the problem whether the 6th December notice was bad "because it added a bad reason to a good reason, or rather, added a reason which the landlords could not pursue until after the arbitration had taken place with regard to the notice to quit dated 13th November." The learned judge, however, did not agree.

It might be pointed out that, though direct authority based on interpretation of agricultural holding legislation may be lacking, parallels could be drawn. It has long been settled that an ordinary forfeiture notice is not invalid by reason of references to matters which do not constitute, in addition to matters which do constitute, breaches of covenant: *Pannell* v. *City of London Brewery Co., Ltd.* [1900] 1 Ch. 496; *Fox* v. *Jolly* [1916] A.C.1—recently followed in *Silvester* v. *Ostrowska* [1959] 1 W.L.R. 1060. The notion that the reference to arbitration would confer something like invulnerability may sound attractive, but it is rather like suggesting that a patient under an anaesthetic in connection with some dangerous surgical operation could not be killed by a shot through the head.

Two months

It will have been observed that the second notice to quit with its accompanying letter was sent off some 6½ hours before the two months of the second preliminary notice had expired, and the point was taken that, by reason of the terms of that letter, the notice to quit did not satisfy the requirement. It is a pity that we are not told the exact terms of the letter: it "stated that it was given because the rent had not been received at the end of normal office hours, viz., 5.30 p.m. on 6th December," which might suggest an attempt to place an indefensible interpretation upon the subsection. But the agent's letter, Paull, J., held, merely pointed out that he was sending it because the rent had not been received by 5.30 p.m.: "He was pointing out that it might be that the rent would be received by midnight on the 6th, in which event the notice could be disregarded, at any rate so far as non-payment of rent was concerned." The learned judge added that he could not see why the letter should be brought into the matter at all; and indeed there are cases concerning notices to quit which show that a notice otherwise sufficient is not made insufficient by being accompanied by something else, as Cotton, L.J., put it in *Ahearn* v. *Bellman* (1879), 4 Ex.D. 201 (C.A.).

The tenant's reaction to the 6th December missive was, in fact, to send the £115 in a letter dated 7th December but collected at 1.30 a.m. on 8th December, and delivered that day. It may be that without the stimulus of a notice to quit payment would have been further delayed; however, once the six months were up, the s. 24 (2) notice could have been served at any time; acceptance of the rent could not effect a waiver or create a new tenancy.

R.B.

Country Practice

WAY OUT WEST

THE children have been listening to a series on the radio—"Gunsmoke," a complicated saga of crime and punishment in and around Dodge City. As the children's parents, or one of them, has also formed part of the vast radio audience, I can disclose that life was pretty tough, and a mite lonesome at times, for the U.S. marshal. Yep, makes you think of our own Police-Constable Dillon, M., out there in the hills far beyond our little market town.

Mr. Dillon is a remarkable man. He has been offered promotion more than once, so I am told, but prefers to remain as Police-Constable Dillon on duty, and plain Mr. Dillon off duty. His expressed reasons for refusing a sergeant's stripes have something to do with an educational handicap. If you think of it, there is not, and most certainly was not, much encouragement for highly educated young men to join a county police force; the wonder is that so many recruits with no educational advantages have worthily risen to higher ranks. (If this sounds patronising, just mention the point to any police superintendent of your acquaintance.)

A road cuts its way into the hills and moors beyond our town. A thrice-daily bus runs up the valley and over the top to the next market town, twenty miles away. The valley is lightly marked with farmhouses and hamlets, and all is comparatively civilised. Quite recently, electric power lines threaded their way along the entire valley, and nowadays a night drive is enlivened by white points of light from each little farm in the valley and on the slopes of the surrounding hills. The police house, though still lacking a telephone, is no longer the patch of yellow lamplight giving warning or reassurance to the traveller by night; instead, it shines out its 240-volt radiance like all the other urbanised little houses in the same hamlet.

The lack of a telephone is indeed a grave reflection on the backward state of the remoter parts of the country; but as the crime wave is no worse there than it was in 1883, when the police house was erected, the urgency is thought to be some degree less than desperate. I once had to get an urgent message out to Mr. Dillon—he was an executor of a will, and a heaven-sent commissioner unexpectedly became available to do the swearing—and the system was simplicity itself. First, a note was written out telling him of the appointment. Next, the local sergeant arranged for the note to be included in the official dispatches, or whatever the police call them. The official packet was handed, in the usual way, to the conductor of the 6.15 p.m. bus, who handed it in the usual way to the proprietor of the only village stores in the entire valley. And Mr. Dillon, neatly suited in clerical grey, was at my office at 10 a.m. the following morning. Beamed radio and helicopter could not have done better.

I suppose that some of the respect given to our wonderful police is due to the fact that they wear uniform, and are not (with few exceptions) known to us personally. On P.-C. Dillon's beat—upwards of 100 square miles—he is known to *everyone* personally. His uniform, therefore, is less important but nevertheless remarkable. The flat peaked cap possesses a strap which is quite frequently worn under the chin. Hands up anyone who has seen any policeman, other than a traffic cop, wearing a peaked cap strapped round his chin. And wellington boots. (As the response is likely to be disappointing, who has seen a general wearing a Tank Corps beret and a pullover?)

The wellington boots are accounted for by the fact that tracks lead up and out of the valley across empty heather and peaty streams to undreamt of hill farms; so hilly, indeed, as to be almost beyond hope of subsidy. Here is neither telephone nor electricity; sanitation is as nature intended, and running water is what runs down the hill and splashes into the stone trough by the back door. The folk who live there do so because they were brought up on the place, and are unsuited to the rest of the world with its irritating forms and figures and inexplicable luxuries. So when Mr. Dillon comes striding down the track "unsuitable for motors," they know that there is threatened trouble from the movement of animals people, or the people who send them statistical returns, or some other nameless wonder. And somehow or other things get put right, and Mr. Dillon has staved off trouble for another year, and actually volunteers to see the things posted or otherwise disposed of.

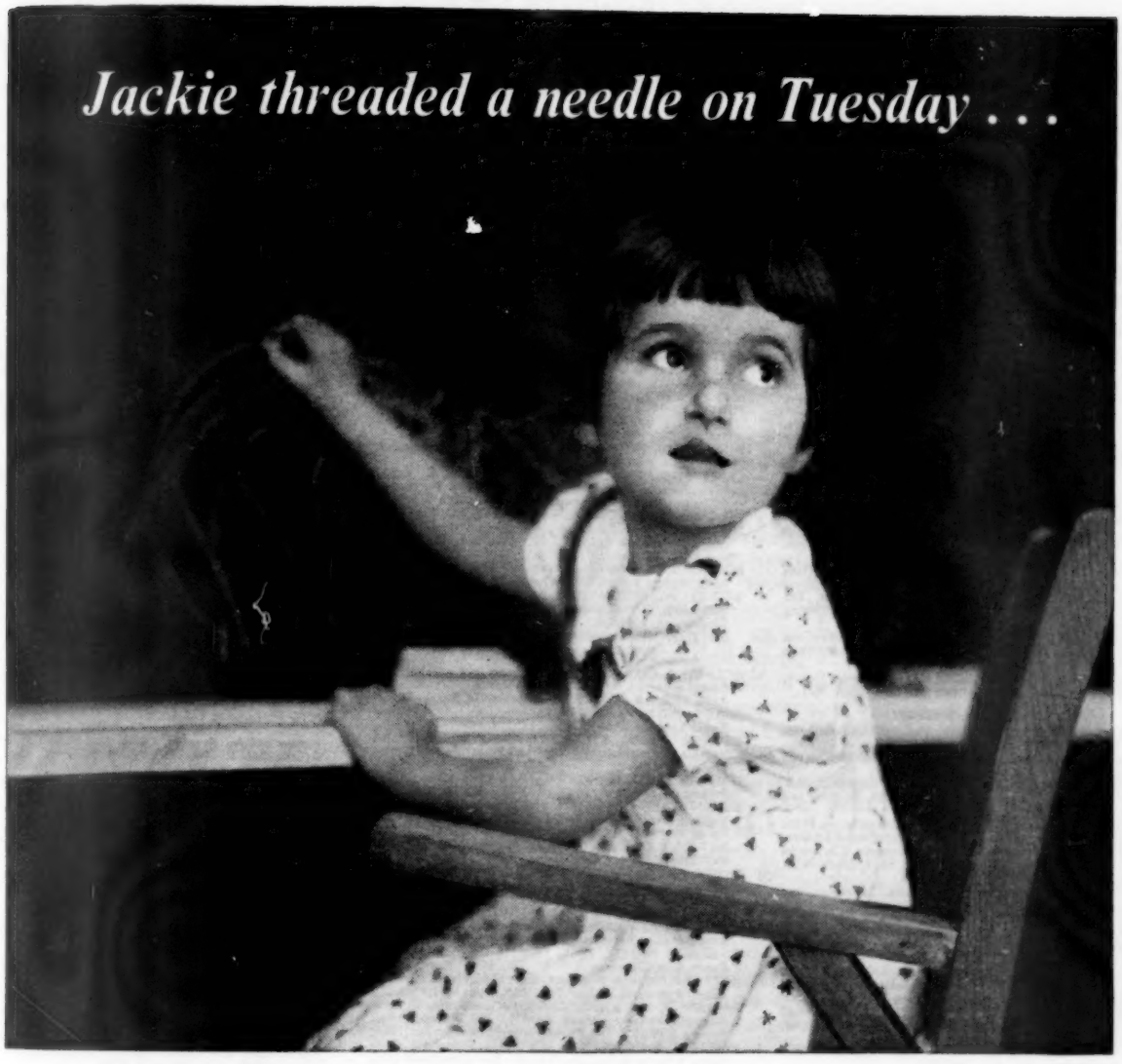
To keep an eye on things is Mr. Dillon's highest duty. There was an old, old man, for instance, who lived all by himself. His door was generally open, because there was often a tree in the way. The tree stretched all the way from the muddy yard to the open kitchen fireplace, where one end was constantly aflame. As it burnt away, the old man would lever the tree further towards the base of the chimney. When the tree was burnt away completely, another could be dragged in. The door was thus kept open for chance callers—very few indeed—and for the nimble sheep who would clatter up and down the uncarpeted stairway out of friendliness. The old man was not a particularly nice old man, but Mr. Dillon kept his eye on him, and, when illness came, saw to the disposal of the pathetic sheepdog, and organised the neighbours, and improvised an ambulance, and then went back to see about the hungry livestock.

Then there was the King of Calabria, who also described himself as Foreign Office Agent 598. He took up residence in a remote smallholding, because life in an industrial area became unpleasing to a mind out of tune with modern civilisation. The King would occasionally review his troops and utter the correct words of command in the complete loneliness of his tussocky pastures. (Wiser men have been known to harangue the House of Lords, or sing impossible tenor arias to an imaginary Covent Garden, in lonely motor cars when the traffic is light.) In politics, the King was a whig of the early Manchester school. Governmental interference in the shape of suggestions from the Agricultural Executive Committee met with utter disregard. If pressed too hard, he would send them a warning on Foreign Office Agent (specially printed) notepaper.

This annoyed the Civil Service, and at last one of their functionaries decided to call to serve him with a notice of some sort. The notice was never served, however. I must say it is a little unnerving to a notice server, knocking at the door, to become aware of a double-barrelled shotgun emerging from the letter-box aperture. So P.-C. Dillon had to intervene diplomatically, and of course the notice was withdrawn.

If the Dodge City scriptwriters would care to get in touch with me through the Editor, further material will be supplied on the usual terms.

"HIGHFIELD."



It was worth a thousand pounds!

Usually little girls can thread a needle by the time they are five or six—the necessary co-ordination comes to them naturally. But because Jackie had the great misfortune to be born a spastic she is five years behind in little things like this. *Little* things! The threading of that needle is the culmination of a heroic struggle with unresponsive muscles and wayward limbs. It has called for enormous effort from Jackie, loving patience from her teachers and at least a thousand pounds from the resources of the National Spastics Society. It was worth every penny. By the time she is in her early teens, Jackie will have mastered many skills and will be trained to make the most of her considerable intelligence and talents. Throughout the country there are thousands of young people who– if they are to lead useful constructive lives instead of ultimately being condemned to drag out their days in an institution – must have similar costly training. That is why the National Spastics Society appeals to you to remember its work when advising clients on charitable bequests. Loving care costs money – we need *your* help.

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(*continued on p. xiii*)

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HERE AND THERE

MAIL ORDER JOKE

As the time gradually draws nearer when a great representative body of English legal talent, and even perhaps, here and there, genius, will cross the Atlantic on a joint and several mission of goodwill to their brethren in the United States, it is proper and possibly useful to take a look at law and life in those parts as reflected in the newspapers, so that as little as possible in the manners and customs of their hosts may take the visitors by surprise. Now, suppose some of them are drawn (by the haunting beauty of the name) to visit Chattanooga in Tennessee. (My own private, internal and purely fortuitous vision of the place embraces a composite picture of a Red Indian tribal meeting place, traversed by a primitive puffing-Billy-cum-cow-catcher type of railway, serving a picturesque but growing old sweetmeat factory originally set up by an enterprising French pioneer.) Well, English visitors will be well advised to be extremely careful what orders they place in the shops there, particularly by way of presents for their generous hosts. The inhabitants will be suspicious, and their suspicions will not be diminished by the unfamiliar sound of an affected English accent. The fact is that Chattanooga has recently been the scene of one of those practical jokes in the grand manner for which the English seem to have lost the knack. An individual called Evoid Curtcher (any novelist who had invented *that* name would have thought himself safely within the realms of fiction) became aggrieved because an insurance company turned down his application for employment. By way of riposte to the company's officials he wrote in their names to various mail-order firms requesting delivery of the most improbable goods. In the result a particularly gaunt director received a weight-reducing machine, while another director received 1,500lb. of cheese, and so on. The historically minded will recognise a certain family resemblance to the great and famous Berners Street Hoax on 26th November, 1810, when Mrs. Tottingham, of No. 54, found 200 orders for every variety of goods, bulky and small, mysteriously ordered from a host of tradespeople, being delivered at her door on the same day at the same hour. In Chattanooga the immediate problem was how to punish Mr. Curtcher. What criminal offence had he committed? Had he in fact committed any offence known to the law? In the United States they are very expert at making the offence fit the offender. Murderous gangsters who, by some strange quirk of the law of evidence, cannot be convicted of any of their purely professional crimes, are sentenced to long terms of imprisonment for tax offences. Mr. Curtcher is awaiting trial on a charge of misusing the United States mails.

GRAND FORGERY

We will watch with interest and some apprehension for the result of this trial, for the implications might be far-reaching. The implication inherent in the prosecution surely is that the United States mails are too sacred to be used for any but sober, virtuous, serious, strictly factual communications and that to travel outside this sphere is a punishable offence, a sort of contempt of Post Office, so that if I send a letter which contains a vulgar joke, or abuse of a politician or saucy advances to a married woman, I shall be deemed to have committed an offence, simply by reason of my method of communication. This is particularly ironical at the moment when the United States Post Office has just been discovered to be guilty of wholesale forgery amounting almost to sacrilege. "Look who's talking," one may say. What has happened is this. A new stamp has just been issued bearing a representation of the even-hanging scales of justice and the text: "Observe good faith and justice toward all nations." Beneath is an artistic "facsimile" of the signature of George Washington. It is neat; it is legible; it is even quite decorative. The only trouble is that it is not George Washington's signature, but a deliberate "improvement" of it by the Post Office. Were I employed in the propaganda department of some country with an interest in discrediting the United States, I could write a very stirring little piece about the capitalist hyenas wallowing in the depravity of circulating a palpable falsehood when in the very act of invoking the principle of good faith. But that would not really be fair because that sort of impulse is characteristic, not of any particular nation, but of the tidy-minded, compulsorily educated bureaucracies who guide the destinies of all nations. The official explanation given is that "the signature of the first President does not meet the present legibility standards of the Post Office Department." In other words, Washington having been unfortunately too busy saving his country and fighting its battles to qualify as a post office clerk, his shortcomings must now be posthumously corrected by some more accomplished civil servant. Perhaps some indignant historian will launch a prosecution against the person who forged George Washington's signature for making improper use of the United States mails.

RICHARD ROE.

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time:—

Fines Bill [H.L.] [9th February.
To increase certain fines.

Wages Arrestment Limitation (Amendment) (Scotland) Bill [H.C.] [9th February.

Read Second Time:—

Air Corporations Bill [H.L.] [11th February.
Bournemouth Corporation Bill [H.L.] [10th February.
Bude-Stratton Urban District Council Bill [H.L.] [11th February.
Canterbury and District Water Bill [H.L.] [11th February.
Cardiff Corporation Bill [H.L.] [9th February.
Cinematograph Films Bill [H.L.] [9th February.
Derby Corporation Bill [H.L.] [9th February.
Derbyshire County Council Bill [H.L.] [9th February.
Foreign Service Bill [H.L.] [9th February.
Manchester Ship Canal Bill [H.L.] [11th February.
Mental Health (Scotland) Bill [H.C.] [9th February.
Methodist Church Funds Bill [H.L.] [9th February.
Mexborough and Swinton Traction Bill [H.L.] [11th February.
Northampton County Council Bill [H.L.] [10th February.
Oldham Corporation Bill [H.L.] [11th February.
Presbyterian Church of England Bill [H.L.] [10th February.

Read Third Time:—

Distress for Rates Bill [H.L.] [10th February.

In Committee:—

Radioactive Substances Bill [H.L.] [9th February.

HOUSE OF COMMONS

A. Progress of Bills

Read First Time:—

Gas Bill [H.C.] [11th February.

To increase the amount which may be borrowed by the Gas Council and Area Boards under the Gas Act, 1948, and to amend that Act with respect to the expenses of the Minister in connection with the testing of gas for compliance with standards prescribed under that Act.

Iron and Steel (Financial Provisions) Bill [H.C.] [11th February.

To authorise the payment out of the Consolidated Fund of loans to be made for capital purposes by the Minister of Power in pursuance of arrangements under Section 5 of the Iron and Steel Act, 1953; and for connected purposes.

Public Services Vehicles (Travel Concessions) Act, 1955 (Amendment) Bill [H.C.] [9th February.

To make further provision with respect to the allowing of free travel or reduced fares on public service vehicles run by local authorities, and for purposes connected therewith.

Read Second Time:—

Croydon Corporation Bill [H.C.] [8th February.
Hastings Pier Bill [H.C.] [8th February.
Hertfordshire County Council Bill [H.C.] [11th February.

B. Questions

Small Shops (Tenancies)

Mr. Henry Brooke said that possession of a combined shop and dwelling-house could only be obtained without proof of greater hardship to the landlord if the premises were outside the rateable value limits for rent control. In such cases the tenant enjoyed substantially the same protection under the Landlord and Tenant Act, 1954, as he would under the Rent Act, 1957, unless the landlord wished to re-occupy the premises himself or to reconstruct them, and could satisfy the court of this. If the tenant had to give up the premises, he was entitled to compensation. He [Mr. Henry Brooke] saw no injustice in those provisions. [9th February.

Building Societies

Mr. Barber said that 200 building societies had been granted trustee status. The interest rates charged at the time of the individual applications for trustee status varied from 3 per cent. to 7¾ per cent. Those societies which had entered into an agreement under the House Purchase and Housing Act, 1959, were at present allowed to charge now more than 5½ per cent. on advances which might be financed from the Exchequer. [11th February.

STATUTORY INSTRUMENTS

Agricultural Wages Committees (Areas) Order, 1960. (S.I. 1960 No. 180.) 6d.

Berkshire (Advance Payments for Street Works) Order, 1960. (S.I. 1960 No. 179.) 4d.

County of West Suffolk (Electoral Divisions) Order, 1960. (S.I. 1960 No. 183.) 5d.

Exchange Control (Authorised Dealers) (Amendment) Order, 1960. (S.I. 1960 No. 191.) 4d.

Exchange Control (Authorised Depositaries) (Amendment) Order, 1960. (S.I. 1960 No. 192.) 4d.

Import Duty Drawbacks (No. 1) Order, 1960. (S.I. 1960 No. 157.) 5d.

Importation of Raw Vegetables Order, 1960. (S.I. 1960 No. 184.) 5d.

Importation of Raw Vegetables (Scotland) Order, 1960. (S.I. 1960 No. 214.) 5d.

Justices' Allowances Regulations, 1960. (S.I. 1960 No. 144.) 5d.

Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1960. (S.I. 1960 No. 167.) 6d.

Opencast Coal (Fees) Regulations, 1960. (S.I. 1960 No. 194.) 5d.

Draft **Parliamentary Constituencies** Orders, 1960:—

Barnsley and Wakefield.

Middlesbrough.

Walsall.

Scotland (Midlothian, Edinburgh East, Edinburgh South, Edinburgh West, and Edinburgh Pentlands).

Scotland (West Fife and Dunfermline Burghs).

Scotland (West Renfrewshire and Greenock).

Preston By-Pass Motorway Connecting Roads Special Roads Scheme, 1960. (S.I. 1960 No. 124.) 5d.

Probation (Allowances) Rules, 1960. (S.I. 1960 No. 169.) 5d.

Retention of Sewer and Storm Water Drain under Highway (County of Gloucester) (No. 1) Order, 1960. (S.I. 1960 No. 129.) 5d.

River Purification Authority (Commencement No. 11) Order, 1960. (S.I. 1960 No. 213.) 5d.

Stopping up of Highways Orders, 1960:—

County of Berks (No. 1). (S.I. 1960 No. 142.) 5d.
City and County of Bristol (No. 1). (S.I. 1960 No. 125.) 5d.
County of Buckingham (No. 1). (S.I. 1960 No. 126.) 5d.
County of Durham (No. 1). (S.I. 1960 No. 139.) 5d.
County Borough of East Ham (No. 1). (S.I. 1960 No. 147.) 5d.
County of Essex (No. 1). (S.I. 1960 No. 162.) 5d.
County of Essex (No. 2). (S.I. 1960 No. 174.) 5d.
County of Gloucester (No. 1). (S.I. 1960 No. 127.) 5d.
County of Hampshire (No. 2). (S.I. 1960 No. 128.) 5d.
County of Lincoln, Parts of Lindsey (No. 1). (S.I. 1960 No. 145.) 5d.
City and County Borough of Liverpool (No. 3). (S.I. 1960 No. 175.) 5d.
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London (No. 11). (S.I. 1960 No. 171.) 5d.
London (No. 13). (S.I. 1960 No. 164.) 5d.
London (No. 14). (S.I. 1960 No. 176.) 5d.
County Borough of Northampton (No. 1). (S.I. 1960 No. 165.) 5d.
City and County Borough of Plymouth (No. 1). (S.I. 1960 No. 177.) 5d.
County of Suffolk, East (No. 1). (S.I. 1960 No. 172.) 5d.
County of Suffolk, West (No. 1). (S.I. 1960 No. 149.) 5d.
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County Borough of West Ham (No. 2). (S.I. 1960 No. 166.) 5d.
County Borough of West Ham (No. 3). (S.I. 1960 No. 178.) 5d.
County of Worcester (No. 2). (S.I. 1960 No. 141.) 5d.
County of York, West Riding (No. 6). (S.I. 1960 No. 182.) 5d.

Teachers Superannuation Amending Rules, 1960. (S.I. 1960 No. 159.) 5d.

Thorne and District (Water Charges) Order, 1960. (S.I. 1960 No. 158.) 5d.

Tynemouth Water Order, 1960. (S.I. 1960 No. 168.) 7d.

Wages Regulation (Made-up Textiles) Order, 1960. (S.I. 1960 No. 160.) 7d.

Wages Regulation (Tin Box) Order, 1960. (S.I. 1960 No. 181.) 6d.

Wells Water Order, 1960. (S.I. 1960 No. 156.) 5d.

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xiv "The Solicitors' Journal" Friday, February 19, 1960

NOTES OF CASES

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House of Lords

RATING: *RES JUDICATA*: DECISION OF LOCAL VALUATION COURT: SCIENTIFIC SOCIETY

Society of Medical Officers of Health *v.* Hope (Valuation Officer)

Viscount Simonds, Lord Radcliffe, Lord Cohen, Lord Keith of Avonholm and Lord Jenkins. 21st January, 1960

Appeal from the Court of Appeal ([1959] 1 Q.B. 462; 103 SOL. J. 200).

Section 48 (4) of the Local Government Act, 1948, provides that on appeal to a local valuation court the court " shall give such directions with respect to the manner in which the hereditament in question is to be treated in the valuation list as appear to them to be necessary. . . ." In 1951, a society made a proposal to delete from the current valuation list a hereditament occupied by it on the ground that it was exempt from payment of rates under s. 1 of the Scientific Societies Act, 1843. The valuation officer objected. On appeal to the local valuation court for the area, the court decided that the hereditament was exempt under the 1843 Act, and directed that the list be amended to accord with that decision. On 1st April, 1956, a new valuation list came into force by virtue of statutory directions, and the society's hereditament was entered on that list with gross and rateable values. The society again made a proposal that it be exempt under the 1843 Act. The valuation officer objected. On appeal to the local valuation court for the same area, the court stated that they had in 1951 decided that the society was exempt, and in the absence of evidence adduced by the valuation officer of any variation in the society's constitution and activities since 1951, the court decided that the hereditament be exempt from rates under the 1843 Act. On the valuation officer's appeal to the Lands Tribunal, the society entered a plea of *res judicata*, and the tribunal heard the appeal on that preliminary point, but rejected the plea of *res judicata*. The society, having appealed unsuccessfully to the Court of Appeal, now appealed to the House of Lords.

VISCOUNT SIMONDS said that he agreed with the opinion which LORD RADCLIFFE would deliver.

LORD RADCLIFFE said that the only question concerned the application of the principle of estoppel *per rem judicatam* to the making of a new valuation list. Did the decision create an estoppel when the valuation list which was the subject of that decision had come to the end of its statutory life and a new quinquennial valuation list had to be brought into existence? Obviously not, if there had been any material change in the circumstances in the meantime. But the appellants contended that it did if it were shown or agreed that there had been no change of circumstances. The local valuation court was a court of competent jurisdiction able to give a final decision of some sort between those who appeared before it, but did the decisions for which it was a court of competent jurisdiction extend beyond the range of the form and contents of the current valuation list? Again, was the controversy a *lis* and was the valuation officer a " party " for the purposes of the principles of estoppel *per rem judicatam*? What was in question was the conclusiveness for liability to one rate of a decision given with regard to another. There was high and frequent authority for the proposition that a decision given on one rate of tax should not settle more than the bare issue of that one liability and that consequently it could not constitute an estoppel when a new issue of liability to a succeeding year's rate of tax came up for adjudication. It was in the public interest that tax and rates assessments should not be artificially encumbered by estoppels. The reason why, in the case of rates and taxes, the difference of subject-matter was treated as being so important lay in two considerations. First, the jurisdiction of the tribunal to which the decision belonged was limited; its function began and ended with deciding the liability of a person for a defined and terminable period. It was not a court of competent jurisdiction to decide general questions of law with the finality needed to set up an estoppel *per rem judicatam*. The second consideration reflected on the propriety of using the words " party " or "*lis inter partes*" in this connection. The valuation officer was a neutral official with no personal interest; he did not represent the rest of the ratepayers other than the complainants. Local valuation courts were not to decide for good such legal issues as the interpretation of statutes or general legal questions affecting ratepayers. To hold that, subject to appeal, such decisions were to be treated as conclusive for all time would be to impose a needlessly heavy burden on the administration of rating.

The other noble and learned lords agreed in dismissing the appeal. Appeal dismissed.

APPEARANCES: *Tolstoy*, Q.C., and *H. S. A. Hart* (*Hillearys*); *Lyell*, Q.C., and *Patrick Browne* (*Solicitor of Inland Revenue*)

[Reported by F. H. COWPER, Esq., Barrister-at-Law] **[2 W.L.R. 404**

Queen's Bench Division

RATING: EX-SERVICES CLUB: SECTION 8 RELIEF

Victory (Ex-Services) Association, Ltd. v. Paddington Metropolitan Borough Council

Lord Parker, C.J., Cassels and Ashworth, JJ.
20th January, 1960

Case stated by London Quarter Sessions Appeals Committee.

The Victory (Ex-Services) Association, Ltd., a company limited by guarantee, was incorporated in 1947 to administer a fund of £300,000 raised by a public appeal, to commemorate members of His Majesty's forces who had died in the last war, such memorial to take the form of a residential club in London which would be open to all ex-service members of such forces. The objects for which the association was established, as set out in cl. 3 of the memorandum of association, were, *inter alia*: " (A) To promote comradeship between and improve the condition and welfare of all ranks, both past and present of the armed forces of the Crown." A number of other objects were set out in paras. (B) to (I). The association acquired premises which it opened in 1948 as a club providing residential and other facilities for members. Membership of the club was restricted to ex-servicemen and women, on payment of an annual subscription of 10s. a year, and there were about 23,000 members. The association also provided on the premises a welfare advice bureau and an employment agency open to all ex-servicemen and women without charge. Quarter sessions dismissed an appeal by the association against a rate made and demanded in respect of the premises, in which the association claimed to be entitled to relief under s. 8 of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, on the ground that it was an organisation " whose main objects are . . . concerned . . . with the advancement of social welfare " within the meaning of s. 8 (1) (*a*). The association appealed.

LORD PARKER, C.J., said that, prima facie, where an association had a written constitution setting out its objects, it was that which must be looked to to see what were the objects and the main objects. If there was any ambiguity, or any suggestion that the original objects had in practice changed, it would be right to look to see what in practice the

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Viscount Simonds, Lord Radcliffe, Lord Cohen, Lord Keith of Avonholm and Lord Jenkins. 21st January, 1960

Appeal from the Court of Appeal ([1959] 1 Q.B. 462; 103 SOL. J. 200).

Section 48 (4) of the Local Government Act, 1948, provides that on appeal to a local valuation court the court " shall give such directions with respect to the manner in which the hereditament in question is to be treated in the valuation list as appear to them to be necessary. . . ." In 1951, a society made a proposal to delete from the current valuation list a hereditament occupied by it on the ground that it was exempt from payment of rates under s. 1 of the Scientific Societies Act, 1843. The valuation officer objected. On appeal to the local valuation court for the area, the court decided that the hereditament was exempt under the 1843 Act, and directed that the list be amended to accord with that decision. On 1st April, 1956, a new valuation list came into force by virtue of statutory directions, and the society's hereditament was entered on that list with gross and rateable values. The society again made a proposal that it be exempt under the 1843 Act. The valuation officer objected. On appeal to the local valuation court for the same area, the court stated that they had in 1951 decided that the society was exempt, and in the absence of evidence adduced by the valuation officer of any variation in the society's constitution and activities since 1951, the court decided that the hereditament be exempt from rates under the 1843 Act. On the valuation officer's appeal to the Lands Tribunal, the society entered a plea of *res judicata*, and the tribunal heard the appeal on that preliminary point, but rejected the plea of *res judicata*. The society, having appealed unsuccessfully to the Court of Appeal, now appealed to the House of Lords.

VISCOUNT SIMONDS said that he agreed with the opinion which LORD RADCLIFFE would deliver.

LORD RADCLIFFE said that the only question concerned the application of the principle of estoppel *per rem judicatam* to the making of a new valuation list. Did the decision create an estoppel when the valuation list which was the subject of that decision had come to the end of its statutory life and a new quinquennial valuation list had to be brought into existence? Obviously not, if there had been any material change in the circumstances in the meantime. But the appellants contended that it did if it were shown or agreed that there had been no change of circumstances. The local valuation court was a court of competent jurisdiction able to give a final decision of some sort between those who appeared before it, but did the decisions for which it was a court of competent jurisdiction extend beyond the range of the form and contents of the current valuation list? Again, was the controversy a *lis* and was the valuation officer a " party " for the purposes of the principles of estoppel *per rem judicatam*? What was in question was the conclusiveness for liability to one rate of a decision given with regard to another. There was high and frequent authority for the proposition that a decision given on one rate of tax should not settle more than the bare issue of that one liability and that consequently it could not constitute an estoppel when a new issue of liability to a succeeding year's rate of tax came up for adjudication. It was in the public interest that tax and rates assessments should not be artificially encumbered by estoppels. The reason why, in the case of rates and taxes, the difference of subject-matter was treated as being so important lay in two considerations. First, the jurisdiction of the tribunal to which the decision belonged was limited; its function began and ended with deciding the liability of a person for a defined and terminable period. It was not a court of competent jurisdiction to decide general questions of law with the finality needed to set up an estoppel *per rem judicatam*. The second consideration reflected on the propriety of using the words " party " or *" lis inter partes "* in this connection. The valuation officer was a neutral official with no personal interest; he did not represent the rest of the ratepayers other than the complainants. Local valuation courts were not to decide for good such legal issues as the interpretation of statutes or general legal questions affecting ratepayers. To hold that, subject to appeal, such decisions were to be treated as conclusive for all time would be to impose a needlessly heavy burden on the administration of rating.

The other noble and learned lords agreed in dismissing the appeal. Appeal dismissed.

APPEARANCES: *Tolstoy*, Q.C., and *H. S. A. Hart* (*Hillearys*); *Lyell*, Q.C., and *Patrick Browne* (*Solicitor of Inland Revenue*)

[Reported by F. H. COWPER, Esq., Barrister-at-Law] **[2 W.L.R. 404**

Queen's Bench Division

RATING: EX-SERVICES CLUB: SECTION 8 RELIEF

Victory (Ex-Services) Association, Ltd. v. Paddington Metropolitan Borough Council

Lord Parker, C.J., Cassels and Ashworth, JJ.
20th January, 1960

Case stated by London Quarter Sessions Appeals Committee.

The Victory (Ex-Services) Association, Ltd., a company limited by guarantee, was incorporated in 1947 to administer a fund of £300,000 raised by a public appeal, to commemorate members of His Majesty's forces who had died in the last war, such memorial to take the form of a residential club in London which would be open to all ex-service members of such forces. The objects for which the association was established, as set out in cl. 3 of the memorandum of association, were, *inter alia*: " (A) To promote comradeship between and improve the condition and welfare of all ranks, both past and present of the armed forces of the Crown." A number of other objects were set out in paras. (B) to (I). The association acquired premises which it opened in 1948 as a club providing residential and other facilities for members. Membership of the club was restricted to ex-servicemen and women, on payment of an annual subscription of 10s. a year, and there were about 23,000 members. The association also provided on the premises a welfare advice bureau and an employment agency open to all ex-servicemen and women without charge. Quarter sessions dismissed an appeal by the association against a rate made and demanded in respect of the premises, in which the association claimed to be entitled to relief under s. 8 of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, on the ground that it was an organisation " whose main objects are . . . concerned . . . with the advancement of social welfare " within the meaning of s. 8 (1) (*a*). The association appealed.

LORD PARKER, C.J., said that, prima facie, where an association had a written constitution setting out its objects, it was that which must be looked to to see what were the objects and the main objects. If there was any ambiguity, or any suggestion that the original objects had in practice changed, it would be right to look to see what in practice the

organisation concerned was doing. The main objects of the appellant association were to be found in cl. 3 (A). The class of persons whom it was intended to benefit was of a sufficiently large and of sufficient public character, and, in so far as it was necessary, there was an element of altruism since the funds of the association were raised by voluntary gifts. But it had been said that that was not a single object but two objects, first to promote comradeship, which could not be said to come within the words "advancement of social welfare," and, secondly, to improve the condition and welfare of members of the forces, which might be capable of coming within those words. It was a question of construction and his lordship thought that there was only one composite object in cl. 3 (A). Read as a whole he could see no reason why the words of that clause did not aptly describe the concept of the advancement of social welfare. It had been said in some of the cases that the conception was that there should be some activity which benefited the needy, but the reference to the needy in such a concept did not necessarily mean those in need financially. In dealing with the vast number of people who as the result of many wars were now ex-servicemen, and those at present serving in the forces, there was a need for the sort of activities the association proposed and had in fact carried out with the object of promoting comradeship and improving the condition and welfare of all ranks. In his lordship's judgment the appeals committee came to a wrong decision; the main objects of the association were concerned with the advancement of social welfare, and accordingly the appeal should be allowed.

CASSELS and ASHWORTH, JJ., agreed. Appeal allowed.

APPEARANCES: *J. Ramsay Willis*, Q.C., *Alan Fletcher* and *Graham Eyre* (*Speechly, Mumford & Soames*); *J. T. Molony*, Q.C., and *F. A. Amies* (*W. H. Bentley*, Town Clerk, Paddington).

[Reported by Miss J. F. LAMB, Barrister-at-Law] **[1 W.L.R. 106**

JUSTICES: COSTS: EVIDENCE BY POLICE OFFICER: WHETHER "COSTS" INCURRED BY PROSECUTOR

R. *v.* Burt; *ex parte* Presburg

Lord Parker, C.J., Cassels and Ashworth, JJ.

22nd January, 1960

Application for certiorari.

The applicant appeared before a stipendiary magistrate to answer an information charging him with an offence under s. 49 of the Road Traffic Act, 1930, and pleaded not guilty. The police were not represented at the hearing, but a police officer attended and gave evidence and the prosecution case consisted solely of his evidence. The magistrate convicted the appellant, and, having fined him 20s., ordered him to pay £2 2s. costs. The applicant sought an order of certiorari to bring up and quash that part of the magistrate's order relating to costs, on the grounds, *inter alia*, that under s. 6 of the Costs in Criminal Cases Act, 1952, the magistrate might only order such costs as he thought just and reasonable and that, since costs could not include any sum of money as compensation for the salary paid to a police officer, the prosecution had in fact incurred no costs, so that the costs awarded were neither just nor reasonable alternatively, that the sum was plainly excessive, and therefore the award was made without jurisdiction. It was conceded, in view of the definition in s. 17 (1), that the "prosecutor" was the Commissioner of Metropolitan Police.

LORD PARKER, C.J., said that he would be surprised if it was necessary to limit the word "costs" in s. 6 (1), which was in the widest possible terms, to disbursements and expenses properly so called. The matter was put beyond doubt by *A.-G.* v. *Shillibeer* (1850), 19 L.J. (N.S.) Ex. 115, where the Crown had employed the services of the Crown Solicitor, a salaried employee of the Crown, and was held to be entitled to full costs. There was no distinction between that case and the case of the salary paid to a police officer, or any other salary which a prosecutor had to pay to a person whose activities were necessary in or about a prosecution, and it mattered not that the person to whom the salary was paid was not a solicitor or a professional man. As to the amount, the onus was on the applicant to show that the costs properly incurred could not equal or exceed £2 2s. It was wrong to make a rough calculation of what the pay of a police officer would amount to for four hours one afternoon; the matter had to be considered in the light of the whole structure of police administration, and it had not been shown that, in the circumstances, £2 2s. was such a sum as could not represent costs properly incurred. In his lordship's judgment the application failed.

CASSELS and ASHWORTH, JJ., agreed. Application dismissed.

APPEARANCES: *James Miskin* (*Amery-Parkes & Co.*); *J. R. Cumming-Bruce* (*Treasury Solicitor*).

[Reported by Miss J. F. LAMB, Barrister-at-Law] **[2 W.L.R. 398**

REVIEWS

Income Tax: Maintenance Relief and Agricultural Allowances. Second Edition. By F. E. CUTLER JONES, B.A. pp. xx and (with Index) 282. 1960. London: Sweet & Maxwell, Ltd. £1 12s. 6s. net.

Solicitors ought to know a great deal more than they do about the allowances under Schedule A given by s. 101 of the Income Tax Act, 1952, for expenses of maintenance, repairs, insurance and management. In a simple form the question is liable to crop up on every conveyance of house property, and more difficult points arise with property which is let, farms and investment companies. Unfortunately this is not the book to supply the solicitor's need. Without some knowledge of the subject it is difficult to read, and the author makes little attempt to arrange his information so that it can be read consecutively.

For instance, ch. 1 contains several references to s. 101 (2) without quoting or explaining the subsection. There is no footnote guiding one to p. 96 where the subsection is quoted for the first time—and slightly misquoted because an unstatutory comma, which could well alter the sense, appears after the word "buildings" in the phrase "farm buildings or cottages." Again, p. 103 mentions capital allowances for agricultural property under s. 314 and proceeds to compare them with maintenance relief, but there is no reference to p. 185 where s. 314 is explained for the first time.

Clearly Mr. Cutler Jones is writing for the practising accountant who deals with the day-to-day negotiation of maintenance claims, and for such a reader, and perhaps also for the specialising solicitor, the book provides a great deal of useful information, with examples worked out in figures. How many of us know that "the owner's personal expenditure . . . e.g., travelling and subsistence expenses in conferring with the solicitor" might be included in a maintenance claim? The fact should be publicised.

State Immunities and Trading Activities in International Law. By SOMPONG SUCHARITKUL, M.A., D.Phil. (Oxon), of the Middle Temple, Barrister-at-Law. With a foreword by C. H. M. WALDOCK, C.M.G., O.B.E., Q.C., D.C.L. pp. xliv and (with Index) 390. 1959. London: Stevens & Sons, Ltd. £3 10s. net.

This work is concerned with the problems arising from a state trader's immunity from the jurisdiction of foreign municipal courts in connection with state purchases from and sales to private foreign traders and state-operated international transport.

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Stoke-on-Trent and North Staffs.—CHARLES BUTTERS & SONS. Established 1856. Chartered Auctioneers, Surveyors, Valuers and Estate Agents, Trinity Buildings, Hanley, Stoke-on-Trent. Tel. 2138/9. Also at Leek.

SUFFOLK

Bury St. Edmunds and East Anglia.—LACY SCOTT AND SONS, 3 Hatter Street, Bury St. Edmunds. Phone 43 and 692.

Ipswich and East Anglia.—SPURLINGS & HEMPSON (Est. 1780), Chartered Surveyors, Chartered Auctioneers, 26 Princes Street, Ipswich. Tel. 51807/8.

Ipswich and East Anglia.—WOODCOCK & SON, 16 Arcade Street, Ipswich. Tel. 54352 (2 lines). Specialists in Selling Country Property and Farms. Established 1850.

Woodbridge.—ARNOTT & CALVER, Auctioneers and Valuers. Est. 1870. Tel. 179.

SURREY

Addiscombe, Shirley, Croydon.—MILLER, WILKINS AND CO., Auctioneers, Surveyors and Valuers, 191 Lower Addiscombe Road. Tel. ADDiscombe 2233/4; and 142 Wickham Road, Shirley. Tel. ADDiscombe 4021.

Ashtead and Leatherhead.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 8 High Street, Leatherhead. Tel. 4136/7 (5 Offices).

Camberley (Hants and Berks Borders).—SADLER AND BAKER, Chartered Auctioneers and Estate Agents, 95 High Street. Est. 1880. Tel. 1619.

Caterham and District, Sanderstead to Purley.—J. C. O'BRIEN, Station Avenue, Caterham. Tel. 4255 and 348. Limpsfield Road, Sanderstead. Tel. 4426.

Cobham.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 47. Offices throughout West Surrey.

Coulsdon.—SINDEN, TOMKINS & KING, F.A.L.P.A., Valuers, Surveyors and Estate Agents, 76 Chipstead Valley Road. Tel. UPLands 0600.

Croydon.—BLAKE, SON & WILLIAMS. Est. 1798. Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 51 High Street, Croydon. CROydon 7155/6.

Croydon, Addiscombe and Wallington.—BOWDITCH & GRANT. (Est. 1881). Surveyors, Valuers, Auctioneers, 103/105 George Street, Croydon. Tel. CRO 0138/9.

Croydon and District.—JOHN P. DICKINS & SONS, Surveyors, Valuers and Estate Agents. Est. 1882. 2 and 4 George Street, Croydon. CROydon 3128/9/0.

Croydon and London.—HAROLD WILLIAMS AND PARTNERS, Chartered Surveyors, Valuers, Chartered Auctioneers and Estate Agents, 80 High Street, Croydon. Tel. Croydon 1931. And at 70 Victoria Street, S.W.1. Tel. Victoria 2893.

Croydon and Epsom.—ROBT. W. FULLER, MOON AND FULLER, Chartered Surveyors, Valuers and Auctioneers, 85 High Street, Croydon (CRO 3124/6), and at Epsom (communications to Croydon Office). Established 1824.

Croydon and Sutton.—SAINT, SYMINGTON AND STEDMAN, Surveyors, Auctioneers and Valuers, 106 High Street, Croydon. Tel. CRO 2216/7. And at 6 Cheam Road, Sutton. Tel. VIG 7616/7.

Dorking.—ARNOLD & SON, Auctioneers & Surveyors, 171 High Street and branches. Est. 1855. Tel. 2201/2.

Dorking.—WHITE & SONS, 104 High Street. Agricultural and General Surveyors and Valuers. Tel. 3255.

Dorking & London.—PEARSON, COLE & SHORLAND, Auction and Estate Offices, Dorking. Tel. 3897/8. Surveyors, Valuers and Auctioneers; and at 2 Hans Road, S.W.3. Tel. Kensington 0066.

Dorking, Bookham and Effingham.—CUBITT AND WEST. Tel. Dorking 2212, Bookham 2744. Valuers, Surveyors, Estate Agents.

Dorking and Reigate.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 258/260 High Street, Dorking. Tel. 4071/2. 6 Church Street, Reigate. Tel. 4422/3. And at Leatherhead and Epsom.

Epsom and Ewell.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 10 High St., Epsom. Tel. 2362/4. (5 Offices, Ewell to Leatherhead).

Epsom and Leatherhead.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 21 High Street, Epsom. Tel. 4045/6. 4 Bridge Street, Leatherhead. Tel. 4133/4. And at Reigate and Dorking.

Esher.—EWBANK & CO., in association with Mann & Co. Est. 1891. Tel. 3537/8. Offices throughout West Surrey.

Esher and District.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street. Tel. Esher 12.

SURREY (continued)

Ewell.—WILTSHIRES, Estate Agents, Surveyors, Auctioneers and Valuers, 55 High Street. Tel. Ewell 1665/6.

Farnham.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 4 Castle Street. Tel. 5274 (2 lines).

Farnham.—CUBITT & WEST. Tel. Farnham 5261. Valuers, Surveyors, Estate Agents.

Farnham.—GERMAN, ADDY & CO. (Est. 1903). Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 111 West Street. Tel. 5283/4.

Farnham.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 4189.

Godalming.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, Estate Offices. Tel. 1722 (3 lines).

Godalming.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 1010/1.

Guildford.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 67781/2.

Guildford.—MANN & CO., Est. 1891, 22 Epsom Road. Tel. 62911/2. Offices throughout West Surrey.

Guildford.—MESSENGER, MORGAN & MAY, Chartered Surveyors, 8 Quarry Street. Tel. 2992/4.

Haslemere.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 20 High Street. Tel. 1207.

Haslemere.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 4 and 1176.

Haslemere and Hindhead.—CUBITT & WEST. Tel. Haslemere 2345/6/7, Hindhead 63. Valuers, Surveyors, Estate Agents.

Kingston.—A. G. BONSOR, STEVENS & CO., Est. 1899, 82 Eden Street. Tel. KIN 0022.

Kingston.—NIGHTINGALE, PAGE & BENNETT, Est. 1825, Chartered Surveyors, 18 Eden Street. Tel. KIN 3356.

Kingston upon Thames and Area.—BENTALLS ESTATE OFFICES (L. J. Smith, F.A.L.P.A., P. F. Parkinson, B.Sc., A.A.L.P.A.), Wood St. KIN 1001. Sales, surveys, property and chattel valuations, lettings, management.

Leatherhead, Ashtead, Oxshott.—CHAS. OSENTON AND CO., Chartered Auctioneers, 36 North Street, Leatherhead. (Tel. 3001/2); Ashtead 2382, Oxshott 3344.

Mitcham.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, Upper Green. Tel. MITcham 6101/2.

Redhill and Merstham.—E. H. BENNETT & PARTNERS Auctioneers and Valuers. Tel. Redhill 3672. Merstham 2234/5.

Reigate.—MARTEN & CARNABY, Surveyors, Auctioneers and Valuers, 23 Church Street. Tel. 3361/2.

Richmond.—ACLAND & CO., Estate Agents, Surveyors and Valuers. Rents collected. 27 Kew Road (Opposite Richmond Station). Tel. RIC 4811/2.

Richmond.—PENNINGTONS, 23 The Quadrant, Auctions, Valuations, Surveys. Rents collected. Tel. RIC 2255 (3 lines).

Sanderstead.—HOOKER & ROGERS, Railway Approach, Sanderstead. Manager, K. C. Fox, A.R.I.C.S. Tel. SAN 4414/5.

Surbiton.—E. W. WALLAKER & CO., F.A.L.P.A., Surveyors, Valuers, Auctioneers and Estate Agents, 56/7 Victoria Road, Surbiton, Surrey. Tel. Elmbridge 5381/4 and 4750, and at Chessington, Surrey, Shoreham-by-Sea and Lancing, Sussex. (Chartered Surveyor D. J. Peachey, F.R.I.C.S.)

Sutton.—DOUGLAS GRAHAM & CO., Estate Agents, Property Managers, 269 High Street. Tel. VIG 0026/7/8. And at Thornton Heath, Norbury and Piccadilly, W.1.

Sutton.—IDRIS JONES & PARTNERS, F.R.I.C.S., F.A.I., 22 The Arcade, Sutton. VIGilant 0182; and at 300 Abbey House, Westminster.

Thornton Heath.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, 781 London Road. Tel. THO 6211/2.

Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 808 London Road. Tel. THO 3888 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

Virginia Water and Wentworth.—GOSLING AND MILNER, Station Approach, Virginia Water. Tel. Wentworth 2277. And at 8 Lower Grosvenor Place, S.W.1. Tel. Victoria 3634.

Wallington.—WILLIAM A. DAVIS & PARTNERS, 4 Stanley Park Road. Tel. Wallington 2567.

Walton.—MANN & CO., Est. 1891, 138 High Street. Tel. 2331/2. Offices throughout West Surrey.

Walton and Weybridge.—HIGBY & CHARD (Consultants: George Geen, M.A., F.R.I.C.S., V. C. Lawrence, F.R.I.C.S.), 45 High Street, Walton-on-Thames. Tel. 2487/8.

Walton/Weybridge.—WARING & CO. Est. 1890. Surveyors, Estate Agents, Auctioneers and Valuers. Tel. Walton-on-Thames 24151/2.

West Byfleet.—MANN & CO., incorporating Ewbank and Co. Est 1891. Tel. 3288/9. Offices throughout West Surrey.

Weybridge.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 2323/5. Offices throughout West Surrey.

Weybridge and District.—J. E. PURDIE & SON, Chartered Surveyors and Estate Agents, 1 and 3 Queens Road, Weybridge. Tel. 3307 (3 lines), and at Walton-on-Thames.

Weybridge and District.—WATERER & SONS, Chartered Auctioneers and Estate Agents, Surveyors, etc. Tel. 3838/9.

SURREY (continued)

Woking.—HOAR & SANDERSON, F.V.I. Tel. 3263/4. Ten associated Surrey offices.

Woking.—MANN & CO., Est. 1891, Chartered Surveyors. Tel. 3800 (6 lines). Offices throughout West Surrey.

Woking.—MOLDRAM, CLARKE & EDGLEY, Chartered Surveyors. Tel. 3419; and at Guildford.

SUSSEX

Angmering-on-Sea, Rustington, Worthing and Storrington.—BERNARD TUCKER & SON. Est. 1890. L. B. Tucker, F.R.I.C.S., F.A.I., G. H. E. Evans, F.A.L.P.A., W. J. Brown, F.A.I. Tels. Rustington 1, Worthing 5708/9, Storrington 535.

Arundel and Rustington.—HEASMAN & PARTNERS. Tel. Arundel 2323, Rustington 900.

Bexhill-on-Sea.—JOHN BRAY & SONS (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square. Tel. 14.

Bexhill-on-Sea and Cooden.—ERNEST SHEATHER, F.A.I., Chartered Auctioneer and Estate Agent, 14 St. Leonards Road. Tel. 350, 351 and 2280.

Bexhill-on-Sea and Little Common.—RICHES & GRAY (Est. 1883), Chartered Auctioneers and Estate Agents, 25 Sea Road, Bexhill-on-Sea. Tel. 34/5. And at 25 Cooden Sea Road, Little Common. Tel. Cooden 2939.

Brighton.—RAYMOND BEAUMONT, F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 35 East Street. Tel. Brighton 20163.

Brighton.—MELLOR & MELLOR, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

Brighton.—H. D. S. STILES & CO., F.R.I.C.S., F.A.I. (special rating diploma), 6 Pavilion Buildings. Tel. Brighton 23244 (4 lines). 10 King's Bench Walk, Temple E.C.4. Tel. Central 5356. 3 The Steyne, Worthing. Tel. Worthing 9192/3.

Brighton.—FRANK STONE & PARTNERS, F.A.L.P.A., 84 Queen's Road. Tel. Brighton 29252/3.

Brighton and Hove.—WILLIAM WILLETT, LTD., Auctioneers and Estate Agents, 52 Church Road, Hove. Tel. Hove 34055. London Office, Sloane Square, S.W.1. Tel. Sloane 8141.

Brighton, Hove and Surrounding Districts.—MAURICE P. HATCHWELL, F.R.I.C.S., F.A.I., Chartered Surveyor, Chartered Auctioneer and Estate Agent, 4 Bartholomews, Brighton, 1. Tel. Brighton 23107.

Brighton and Hove and Surrounding Districts.—C. HORTON LEDGER, F.A.I., Established 1885. Chartered Auctioneer and Estate Agent, Surveyor and Valuer, "Sussex House," 126/7 Western Road, Hove, Sussex. Tel. 71291.

Chichester and Bognor Regis.—WHITEHEAD & WHITEHEAD, Chartered Auctioneers and Estate Agents, South Street, Chichester. Tel. 3031 (5 lines). Station Road, Bognor Regis. Tel. 2237/8.

Crawley.—JOHN CHURCHMAN & SONS, Chartered Surveyors, Valuers, Land Agents. Tel. Crawley 1899.

Crawley.—WM. WOOD, SON & GARDNER, Surveyors and Valuers. Tel. Crawley 1.

Crowborough.—DONALD BEALE & CO., Auctioneers, Surveyors and Valuers. The Broadway. Tel. Crowborough 3333.

Eastbourne.—FRANK H. BUDD, LTD., Auctioneers, Surveyors, Valuers, 1 Bolton Road. Tel. 1860.

Eastbourne.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, Estate Offices, Friston Hill, East Dean, Nr. Eastbourne. Tel. East Dean 2277.

Eastbourne.—HEFFORD & HOLMES, F.A.I., Chartered Auctioneers and Estate Agents, 51 Gildredge Road. Tel. Eastbourne 7840.

Eastbourne.—OAKDEN & CO., Estate Agents, Auctioneers and Valuers, 24 Cornfield Road. Est. 1897. Tel. 1234/5.

Eastbourne and District.—FARNHAM & CO., Auctioneers, Estate Agents and Valuers, 6 Terminus Road, Eastbourne. Tel. 4433/4/5. Branch at 87 Eastbourne Road, Lower Willingdon, and 4 Grand Parade, Polegate.

East Grinstead.—Messrs. P. J. MAY (P. J. May and A. L. Apthorp, F.R.I.C.S., F.A.I., M.R.San.I.), 2 London Road. Tel. East Grinstead 315/6.

East Grinstead.—TURNER, RUDGE & TURNER, Chartered Surveyors. Tel. East Grinstead 700/1.

Hassocks and Mid-Sussex.—AYLING & STRUDWICK, Chartered Surveyors. Tel. Hassocks 882/3.

Hastings, St. Leonards and East Sussex.—DYER & OVERTON (H. B. Dyer, D.S.O., F.R.I.C.S., F.A.I.; F. R. Hynard, A.R.I.C.S.), Consultant Chartered Surveyors. Estd. 1892. 6-7 Havelock Road, Hastings. Tel. 5661/2.

Hastings, St. Leonards and East Sussex.—WEST (Godfrey, F.R.I.C.S., F.A.I.) & HICKMAN, Surveyors and Valuers, 50 Havelock Road, Hastings. Tel. 6688/9.

Haywards Heath and District.—DAY & SONS, Auctioneers and Surveyors, 115 South Road. Tel. 1580. And at Brighton and Hove.

Haywards Heath and Mid-Sussex.—BRADLEY AND VAUGHAN, Chartered Auctioneers and Estate Agents. Tel. 91.

Horsham.—KING & CHASEMORE, Chartered Surveyors, Auctioneers, Valuers, Land and Estate Agents. Tel. Horsham 3355 (3 lines).

Horsham.—WELLER & CO., Surveyors, Auctioneers, Valuers, Estate Agents. Tel. Horsham 3311. And at Guildford, Cranleigh and Henfield.

(continued on p. xvii)

Of course, the difficulties lie in the immunity accorded under the classical system of international law to one sovereign state from the municipal jurisdiction of another.

The author has made a close study of the various aspects of these problems and he has attempted to ascertain, and as far as possible clarify, the existing principles of international law on matters of state immunity and trading activities. Besides a review of the general practice of states consisting principally of judicial decisions and treaties, the book contains an examination of legal developments in the light of the writings of publicists, *opiniones doctorum*, resolutions and proceedings of learned institutions interested in international law and projected international conventions relative to the position of foreign states before domestic courts.

It may well be that this work will contribute to the development of international law which will permit states and individuals concurrently to engage in trade on an absolutely equal footing, but is it of particular value to the solicitor in private practice? We doubt it, although, as Dr. Waldock suggests in his foreword, this book will prove a very useful addition to the libraries of international lawyers and a useful guide to those who in due course may be called upon to deal with the codification of the law on the subject.

The County Court Practice, 1960. By His Honour Judge Sir EDGAR DALE, R. C. L. GREGORY, LL.B., of Gray's Inn, Barrister-at-Law, and Mr. Registrar DOUGLAS FEARN. 1960. pp. ccxlv and (with index) 2135. London: Butterworth & Co. (Publishers), Ltd.; Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd. £5 5s. net.

The County Courts Act, 1959, a consolidating Act combining the provisions of the County Courts Acts, 1934 and 1955, and the Administration of Justice Act, 1956, into a single statute, has undoubtedly inspired the bulk of the work in this year's edition. To assist the reader two comparative tables have been prepared, the first of which shows where the provisions of the former legislation are now to be found and the second the origins of the new Act. The 1959 Act, however, can hardly be labelled "revolutionary," but several points are worth noting. For instance, s. 89 of the County Courts Act, 1934, the old arbitration section, has now become s. 92 of the 1959 Act, and correspondingly the old reference section, s. 90, has become s. 93.

It is, perhaps, the County Court (Amendment) Rules, 1959, which have created the real changes in this work. The rules, though largely intended to tidy up the change-over from the 1934 Act to the 1959 Act, also removed various archaisms in the prescribed forms and made several substantive amendments, the most important of which are those to Ord. 11, r. 1. This rule is amended to give the court discretion to order the payment of taxed costs where the defendant satisfies the claim within eight days of the service of the summons.

Several new statutes have been included in Pt. 2 of the book, the most important being the House Purchase and Housing Act, 1959, and the Legitimacy Act, 1959, and three consolidating Acts, viz., the Highways Act, 1959, the Weeds Act, 1959, and the Mental Health Act, 1959.

BOOKS RECEIVED

Clinical Toxicology. By C. J. POLSON, M.D. (Birm.), F.R.C.P., M.R.C.S., of the Inner Temple, Barrister-at-Law, and R. N. TATTERSALL, O.B.E., M.D. (Lond.), F.R.C.P. pp. xi and (with Index) 589. 1960. London: The English Universities Press, Ltd. £2 2s. net.

F.O.B. Contracts. By DAVID M. SASSOON, M.Jur. (Jerusalem), D.Phil. (Oxon). pp. xxiii and (with Index) 147. 1960. London: Stevens & Sons, Ltd. £1 15s. net.

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. They should be* brief, typewritten in duplicate, *and accompanied by the name and address of the sender* on a separate sheet, *together with a* stamped addressed envelope. *Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all.

Application of Bequest as Augmentation of Vicar's Salary

Q. A legacy of £1,000 has been bequeathed to the vicar and churchwardens of *X* parish church to be invested by them in any investment authorised by law for the investment of trust moneys, and the income thereof only to be applied by them for such purposes as they think fit for or in connection with educational objects for augmenting or providing the salary or stipend of a choir, organist or towards a curates' fund. At the present time the curates' fund is adequate and the authorities would like to hand over the legacy to the Church Commissioners, who would then apply the income as an addition to the vicar's salary. Can this be done in view of the terms of the bequest? It would appear that the special terms contained in the bequest would prevent the money being used towards the vicar's salary.

A. We think that on a proper construction of this gift the income cannot be applied as an augmentation of the vicar's salary. The fact that the curates' fund is at present adequate is not itself sufficient grounds for applying for a scheme. We express no opinion as to whether or not the gift is charitable.

Planning Permission—WHETHER NECESSARY FOR REBUILDING DWELLING-HOUSE

Q. In May, 1937, *A* was the owner of two adjoining dwelling-houses, and he demolished one so as to add it to the garden. He now wants to rebuild. Can he do so without planning permission, and may he enlarge the new building by not more than one-tenth or 1,750 cubic feet, whichever is the greater? (See Pt. I, Sched. III, to the Town and Country Planning Act, 1947.)

A. In our opinion, planning permission is necessary for the rebuilding. The Town and Country Planning Act, 1947, Sched. III, was intended to define the existing use for purposes such as the levying of development charges and the fixing of compensation. It does not dispense with the necessity for planning permission if that is otherwise required. The corresponding provision dispensing with express planning permission is the Town and Country Planning General Development Order, 1950. That permits, e.g., enlargement of an existing house to the extent you mention, but it does not permit the construction of a dwelling (see Sched. I, Pt. I, Class I, para. 2).

Landlord and Tenant—NOTICE OF TERMINATION SERVED—APPLICATION FOR NEW TENANCY OPPOSED ON GROUNDS OF DELAY IN PAYING RENT

Q. I am acting for a tenant client, who has been served with notice of termination under the Landlord and Tenant Regulations, 1957, and the landlord states he will oppose an application to the court for a new tenancy on the ground of persistent delay in paying rent which has become due. I am unable to trace any reported case on these grounds, and shall be glad if you will let me know whether you are aware of any having been reported. If you cannot I shall be grateful for your observations. I would add that the amount of arrears is quite small, although they have been outstanding for some time. I am instructed that at no time has formal application been made therefor or any proceedings commenced or threatened on account thereof.

A. This problem has been considered by the county courts in *Horowitz* v. *Ferrand* (1956), 5 C.L.R. 207, and in *Davis and Cooper* v. *Gekesko* (*Brushes*), a report of which appears in Woodfall on Landlord and Tenant, 25th ed., 1st Permanent Supplement, p. 327. The court has the duty of weighing up the seriousness of the tenant's conduct. "Persistent delay" indicates a course of conduct over a period and the court will have to take into account the number of times there has been delay, the length of the delay, the steps which the landlord was obliged to take to secure payment, the reason, if any, given for the delay and whether the landlord can be adequately safeguarded against future delays by inserting in the new tenancy a suitable proviso for re-entry and by requiring security for prompt payment to be given.

Estate Duty—Position after Death of a Depositor of Moneys in a Bank Account in Joint Names

Q. In November, 1949, *A* opened a deposit bank account in the joint names of himself and his daughter *B*, himself providing the whole of the initial deposit of £1,000. He informed the daughter that he was making a gift of the whole amount to her but was putting it in the joint names "so that she could not do anything silly with it." In fact the account was one on which either of the joint holders could sign cheques alone. In October, 1954, he removed his name from the account, leaving the money, with the interest accrued since the account was open, at the sole disposal of the daughter. In April, 1955, he died. The Estate Duty Office are now claiming duty on the whole of the amount of the account at the date when he removed his name from it, at the aggregate rate of duty for his estate, which is considerable. Is there any chance of resisting this claim? There is no evidence whatever of his intention when the account was opened except the verbal evidence of the daughter herself.

A. One thing is clear: no beneficial interest passed by survivorship, so the Customs and Inland Revenue Act, 1881, s. 38 (2) (*b*), has no application. Therefore the simple question is whether, after the account was opened in November, 1949, the moneys were: (1) held on resulting trust for the deceased; (2) held by the daughter and the deceased on trust for the daughter; (3) held by the deceased and the daughter in joint tenancy or tenancy in common.

(1) seems to be excluded by the presumption of advancement. (2) may well be the case but if it was so the deceased's object in keeping it in joint names could operate only *in terrorem* because, by *Saunders* v. *Vautier* (1841), Cr. & Ph. 240, the daughter could at any time have called for a transfer into her own name and could, of course, have called on the deceased to account for any of her money which he withdrew. Apart from this it was pointless from the start because the account could be drawn on by either party. (3) is what one would normally expect to be the explanation of the joint names.

The interest no doubt accumulated in the account but it was, we do not doubt, included in the income tax return of one or other of the parties. If it was included in the return of the daughter this seems to be evidence rebutting joint tenancy or tenancy in common. We think that if the whole of the interest was included in the income tax return of the daughter there is good ground to maintain that she was beneficial owner as from 1949 and that the transaction of 1954 was merely the retirement of a trustee. If that was not the case we think you should maintain that the presumption of advancement takes you at least to joint tenancy: one half therefore had been hers since 1949; the other half presumably formed the subject-matter of a second gift in 1954. Therefore that half will be charged with duty.

The Commissioners of Inland Revenue may suggest that the presumption of advancement has but a modified operation in cases of pure personalty. If they do they should be referred to Hanson's Death Duties, 10th ed., p. 252, and the cases there cited which suggest that that proposition has no foundation in law. They may also refer to what they are pleased to call their "practice" in the matter. Their attention should be called to the fact that they are enabled to take that course only in cases to which the Customs and Inland Revenue Act, 1881, s. 38 (2) (*b*), applies—and this is not such a case.

Rent Restriction—Transmission of Tenancy on Death—Children Claiming Joint Tenancy

Q. Many years ago, *H* let a house, now £26 gross value, £19 rateable value, to Mrs. *M*, at a rent of 15s. per week, the landlord paying rates. In 1954, Mrs. *M* died leaving a son and daughter living in the house. *H* at some time later provided another rent book which showed the tenant as "Miss *M* 15s. per week" and called irregularly for the rent at intervals of six months or more. It is not known, but we presume that he was aware that Mr. *M*, the son, a bachelor, was also living in the house. In 1958 *H* died, and after his death, hearing that Miss *M* was shortly to be married and would live elsewhere, as agents for *H's* executors, we gave Miss *M*, on 28th August, written notice to quit on 29th September. Mr. *M* then claimed that on the death of Mrs. *M* he and Miss *M* kept house together and were joint tenants. On 11th December, we served a notice on Miss *M* that the rent of 15s. would be increased by 7s. 6d. per week on 16th March and a further 4s. 11d. on 21st September (calculated on £52, twice the gross value, plus £19 9s. 6d. rates borne by the landlord). Mr. *M's* solicitors claimed that this was an annual tenancy held jointly by Miss *M* and Mr. *M*, therefore that the notice of increase was invalid on several grounds. Later they also stated that Miss *M* left the house on 3rd January last. *H's* executors desire possession in order to sell to the best advantage. Do you consider (1) that Mr. *M* is a "surviving joint tenant" of the premises in the circumstances? (2) that the notice of increase is invalid in the circumstances?

A. We assume that (i) Mrs. *M's* tenancy was a contractual one when she died, no notice to quit or to increase rent having been served and that (ii) she died intestate and no grant of administration was obtained. This being so, we consider that the proper inference from the facts—the name in the rent book and the payments by the daughter—is that the son and daughter agreed that the daughter should be "the tenant" entitled to a tenancy under the Increase of Rent, etc. (Restrictions) Act, 1920, s. 12 (1) (*g*): see *Trayfoot* v. *Lock* [1957] 1 W.L.R. 351, with Denning, L.J.'s: "I should have thought that if there had been a long period of acquiescence the registrar ought to have inferred an agreement" which warrants the proposition that the brother has lost his right to claim the tenancy. There is no provision for a joint tenancy in such circumstances; the only way in which the brother could establish his claim to a joint tenancy would be by showing either that Mrs. *M* left the tenancy to him and his sister, or that she died intestate and the tenancy then devolved upon them, or that a new contractual tenancy was granted to them as joint tenants (see *The Bungalows* (*Maidenhead*) v. *Mason* [1954] 1 W.L.R. 769). Consequently, while the question is essentially one of evidence, we consider that Mr. *M* has no tenancy and that the notice of increase served on Miss *M* is valid; and that she has, of course, lost the statutory security of tenure by non-occupation. The notice of increase converted her tenancy into a statutory one: Rent Act, 1957, s. 6 (3).

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

"Insanity" Defined

Sir,—The decision in *Whysall* v. *Whysall* [1959] 3 W.L.R. 592, still leaves "insanity" or "unsoundness of mind" undefined. I have therefore formulated the following definition:—

> "A person insane or of unsound mind is one who so suffers from inability to exercise the powers of thought, from instability of emotion, and from debility of volition, as to manifest irrationality in word or act."

Your readers' views on this suggested definition will be appreciated.

F. C. Wade.

London, W.C.2.

BUILDING SOCIETIES

House Purchase and Housing Act, 1959

The South Western Building Society has been designated for the purposes of s. 1 of the House Purchase and Housing Act, 1959.

Choosing a Building Society

The Building Societies Association have recently issued a pocket-sized booklet entitled "How to Choose a Building Society." It is intended as a general guide to the public and is available free of charge, on application to the association's offices, 14 Park Street, London, W.1.

"THE SOLICITORS' JOURNAL"

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Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

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REGISTER OF

Auctioneers, Valuers, Surveyors, Land and Estate Agents

SUSSEX (*continued*)

Hove.—DAVID E. DOWLING, F.A.L.P.A., Auctioneer, Surveyor, Valuer & Estate Agent. 75, Church Road, Hove. Tel. Hove 37213 (3 lines).

Hove.—PARSONS SON & BASLEY (W. R. De Silva, F.R.I.C.S., F.A.I.), 173 Church Road, Hove. Tel. 34564.

Hove and District.—WHITLOCK & HEAPS, Incorporated Auctioneers, Estate Agents, Surveyors and Valuers, 65 Sackville Road. Tel. Hove 31822.

Hove, Portslade, Southwick.—DEACON & CO., 11 Station Road, Portslade. Tel. Hove 48440.

Lancing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Lewes and Mid-Sussex.—CLIFFORD DANN, B.Sc., F.R.I.C.S., F.A.I., Fitzroy House, Lewes. Tel. 750. And at Ditchling and Hurstpierpoint.

Seaford.—W. G. F. SWAYNE, F.A.I., Chartered Auctioneer and Estate Agent, Surveyor and Valuer, 3 Clinton Place. Tel. 2144.

Storrington, Pulborough and Billinghurst.—WHITEHEAD & WHITEHEAD amal. with D. Ross & Son, The Square, Storrington (Tel. 40), Swan Corner, Pulborough (Tel. 232/3), High Street, Billinghurst (Tel. 391).

Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).

West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.

Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Worthing.—EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.

Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.

Worthing.—Patching & Co., Est. over a century. Tel. 5000. 5 Chapel Road.

Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

WARWICKSHIRE

Birmingham and District.—SHAW, GILBERT & CO., F.A.I., "Newton Chambers," 43 Cannon Street, Birmingham, 2 Midland 4784 (4 lines).

WARWICKSHIRE (*continued*)

Coventry.—GEORGE LOVEITT & SONS (Est. 1843), Auctioneers, Valuers and Estate Agents, 29 Warwick Row. Tel. 3081/2/3/4.

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Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).

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WESTMORLAND

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WILTSHIRE

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers. Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2. And at Ashby-de-la-Zouch, Burton-on-Trent and Derby

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.

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YORKSHIRE

Bradford.—NORMAN R. GEE & PARTNERS, F.A.I., 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 (2 lines). And at Keighley.

YORKSHIRE (*continued*)

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Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 33991/2.

Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor, 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.

Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.

Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

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Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street. Tel. 30429.

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Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.

Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.

Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.

Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.

Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

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Further information will be supplied by the President:
The Rt. Hon. Lord Luke of Pavenham,
Commonwealth and Continental Church Society,
7 York Buildings,
Adelphi, London, W.C.2

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PUBLIC NOTICES

CITY AND COUNTY OF BRISTOL

ASSISTANT SOLICITOR

Applications invited for position of Assistant Solicitor in the Town Clerk's office on Grade APT. V (£1,220–£1,375). Duties will include the conduct of litigation in the High Court and County Court, including Admiralty actions, with some prosecutions. Local Government experience not essential.

Post pensionable; medical examination.

Applications, stating age, date of admission, qualifications and experience, with names of two referees, to the Town Clerk, Council House, Bristol, 1, by 22nd February.

BOROUGH OF CREWE

ASSISTANT SOLICITOR

Applications are invited for the above appointment. Duties will include conveyancing (including compulsory purchase on programme of central redevelopment) and advocacy. Local government experience is not essential, and the salary grade (not exceeding Grade APT. IV) and starting point within the grade will be determined having regard to the experience of the successful candidate.

Barristers with conveyancing experience will be considered for this appointment.

The Council will be prepared to give consideration to the provision of housing accommodation, if required.

Applications, stating age, qualifications and present salary, together with the names and addresses of two referees, should reach me not later than first post on Saturday, 27th February, 1960.

A. BROOK,
Town Clerk.

Municipal Buildings,
Crewe.
8th February, 1960.

BOROUGH OF ENFIELD

AMENDED ADVERTISEMENT

Applications are invited for the following posts:—

(1) TWO ASSISTANT SOLICITORS—within the APT. Division Grade IV (£1,065–£1,220) according to experience. For one post experience is required in Conveyancing and Compulsory Purchase Procedure and for the other in Advocacy (Police and County Court), Public Inquiries and Common Law.

(2) CONVEYANCING AND GENERAL LEGAL CLERK—APT. Division Grade II (£765–£880)—Applicants should have had experience of Conveyancing and General Legal Work.

Particulars of the appointments and Form of Application may be obtained from and should be returned to the undersigned on or before noon on Monday, 7th March, 1960, in envelopes endorsed "Legal Appointments."

CYRIL E. C. R. PLATTEN,
Town Clerk.

Public Offices,
Gentleman's Row,
Enfield, Middlesex.
9th February, 1960.

COUNTY OF ESSEX

Applications invited for following posts:—

(1) CONVEYANCING CLERKS.—Candidates should be competent conveyancing clerks. Some supervision;

(2) CLERK with some experience of conveyancing work.

Salary according to qualifications and experience of persons appointed, but will not exceed for post (1) £880 a year, and for post (2) £765 a year. Office hours at the rate of 38 a week; 5-day week; sick pay; superannuation; canteen; holiday, for post (1) 18 working days, and for post (2) 15 working days, plus, in each case, 3 days after 10 years' service. Canvassing forbidden. Applications in own handwriting, stating post applied for, age, education, qualifications, experience and names and addresses of three referees, should be sent as soon as possible to County Clerk, County Hall, Chelmsford.

DERBYSHIRE COUNTY COUNCIL

Applications invited for appointment of ASSISTANT PROSECUTING SOLICITOR. Experience in advocacy is essential. Salary J.N.C. "A" (£1,245–£1,420 p.a.). Applications, on forms from the undersigned, returnable by 14th March.

D. G. GILMAN,
Clerk of the County Council.

County Offices,
Matlock.

NATIONAL COAL BOARD
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ASSISTANT SOLICITOR (male) aged 25–30 required for Divisional Legal Adviser's Office, Doncaster, for general conveyancing work, common law litigation and some advocacy. Some supervision by a Senior Solicitor. Previous experience an advantage but not essential. Good educational background preferred. Starting salary £900–£1,200 with prospects of advancement.

Apply to Divisional Chief Staff Officer, 16 South Parade, Doncaster, by 14th March. Quote AA/508.

CITY OF BIRMINGHAM

ASSISTANT SOLICITOR

Applications are invited for the appointment of ASSISTANT SOLICITOR, salary scale B (£1,305–£1,485 per annum). Candidates must have good conveyancing and general legal experience but Local Government experience is not essential. The Solicitor appointed will be engaged in the first place on conveyancing and other general legal work in the Town Clerk's Office but may be deputed from time to time for agreed periods to undertake work at the Law Courts in connection with Police prosecutions.

Post pensionable. Medical examination.

Applications, accompanied by copies of not more than three testimonials, should be delivered to me by 27th February, 1960. Canvassing disqualifies.

T. H. PARKINSON,
Acting Town Clerk.

Council House,
Birmingham, 1.
February, 1960.

BOROUGH OF HARROW

APPOINTMENT OF (*a*) LEGAL ASSISTANT (*b*) CLERICAL ASSISTANT

Excellent openings for young men with legal experience, not necessarily local government. Salary—Legal Assistant, APT. Grade I (£610–£765 per annum), Clerical Assistant, General Division (£220–£625 per annum) plus London weighting allowance in each case. Application forms from Town Clerk, Harrow Weald Lodge, Harrow, Middlesex, to be returned by 27th February, 1960.

BOROUGH OF WILLESDEN

LEGAL ASSISTANT (UNADMITTED)

Applications are invited for this appointment on Grade APT. III (£880–£1,065 plus London weighting £20/£30 per annum). A thorough knowledge and good experience of conveyancing is essential. The post is superannuable and subject to medical examination.

Applications stating age, qualifications and experience with the names and addresses of two referees required not later than 29th February, 1960.

No housing accommodation will be provided by the Council.

R. S. FORSTER,
Town Clerk.

Town Hall,
Dyne Road,
Kilburn,
London, N.W.6.

APPOINTMENTS VACANT

YOUNG energetic Solicitor as assistant in busy general practice: small country town, Kent near Sussex border and coast: excellent progressive salary for man with ability and initiative: write full particulars.—Box 6370, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BRIGHTON Solicitors have a vacancy for an experienced Conveyancing and Probate Clerk. Minimum supervision and permanent post. Salary up to £1,000 for suitable applicant. Write with particulars.—Box 6371, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS in Brighton need an Assistant Solicitor. General family practice, with prospects for a young Solicitor prepared to work hard. Write with details of experience, age, etc.—Box 6372, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

FOREST GATE.—Solicitor to take complete charge of Common Law Litigation and to assist with Probate, Conveyancing and General matters: substantial salary will be paid.—Box 6373, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor with experience in particular of Conveyancing required for small office in South-West London. Salary £950 or as justified by ability. Prospects.—Box 6374, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ROMFORD, Essex.—Solicitors require experienced Probate Clerk. Pension Scheme. Salary £1,000 per annum.—Mullis & Peake, 6 Western Road, Romford.

continued on p. xix

★ Classified Advertisements ★

continued from p. xviii

APPOINTMENTS VACANT—*continued*

SOUTHEND.—Young energetic assistant solicitor required for busy practice. Mainly conveyancing but preferably prepared to undertake some litigation, including advocacy, if required. Good salary and opportunity for right man, who could be newly admitted.—Box 6375, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST MIDLANDS, Worcestershire. Assistant Solicitor required mainly for Common Law. Good salary and prospects.—Write stating age and experience to Box 6376, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SECRETARY required full or part-time: bright clean offices adjacent Circle and Bakerloo Station.—Phone BAYswater 8682.

KENT COAST.—Old-established firm require probate managing clerk; salary by arrangement but in the scale £700 to £900, depending on experience and ability.—Box 6377, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Clerk required by West End Solicitors. Excellent prospects for advancement. 5-day week. Salary commensurate with experience.—Box 5788, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROBATE Trusts Clerk required by West End Solicitors. Knowledge of Company work an advantage. Experience and ability essential as progressive post. No Sats.—Box 5789, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED partner required by West End Solicitors. Share at least £3,000 per annum. Capital required.—Box 6335, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REIGATE-SURREY.—Old-established firm require immediately Managing Clerk for Conveyancing and Probate; please write stating age, qualifications, experience and salary required.—Box 6207, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REIGATE, SURREY.—Old-established firm require immediately Assistant Solicitor for general work but principally Conveyancing and Probate; please write stating age, qualifications, experience and salary required.—Box 6208, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY solicitors require experienced conveyancing clerk; hours 9.30—5, no Saturdays; pension scheme. Please state age, experience and salary required.—Box 6319, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ISLE OF WIGHT.—Assistant solicitor (aged 30–40) required by conveyancing and probate firm with a view to early partnership. Generous terms to right man who must be a sound conveyancer.—Apply Box No. 6330, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Assistant, admitted or unadmitted, to act as personal assistant to Partner in West End firm of Solicitors preferably capable of working without supervision, but willingness and ability of equal importance. Five-day week, good prospects.—Box 6333, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CASHIER required by West End Solicitors. Sole charge. Commencing salary £1,000 per annum for person of experience and ability.—Box 6334, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

FIRST-CLASS litigation managing clerk required by West End Solicitors. Applicants must have sound experience of all branches (except Admiralty) and must be prepared to work hard and without supervision. Commencing salary £1,200 per annum. Excellent prospects of advancement.—Box 6336, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CHELTENHAM.—Assistant Solicitor (public school) wanted for old-established general practice; must be used to acting without supervision and willing to undertake advocacy; commencing salary £1,000; prospects of partnership.—State age and experience to Box 6348, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

OPPORTUNITY for newly qualified man or woman in conveyancing and probate department of old-established South-East Essex firm, perhaps a little advocacy. Excellent prospects for the right person.—Box 6345, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND-ON-SEA old-established firm urgently require assistant (either sex) in conveyancing and probate department to work under supervision if necessary. General practice with opportunities of obtaining wide experience in all branches. Knowledge of court work or advocacy not required. Write stating age, experience and salary. Free articles considered for the right person.—Box 6346, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BUSY old-established City Solicitors require experienced Litigation Managing Clerk, capable of working without supervision. Good salary by arrangement.—Write Box 145, Reynells, 44 Chancery Lane, W.C.2.

CONVEYANCING Clerk required by City Solicitors. Hours 10 a.m. to 5.30 p.m. No Saturdays.—Apply, giving age and experience and salary required to Box 6349, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ENFIELD, Middlesex. City Solicitors opening branch office approximately beginning of April, require energetic and able Conveyancing assistant, admitted or unadmitted, to take full charge. Immense scope and prospects.—Box 6356, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY Solicitors require unadmitted Probate Clerk.—Write giving particulars with age, experience and salary required, to Box 6350, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST SURREY.—Assistant Solicitor required. Recently admitted man considered. Old-established practice, conveyancing court work.—Good salary for right man.—Box 6353, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG Solicitor required for London Suburban Conveyancing practice—must be hard worker and capable of acting independently—good prospects of partnership.—Box 6354, Solicitors' Journal, Oyez House, Breams Buildings, E.C.4.

OLD-ESTABLISHED Manchester Solicitors require admitted or unadmitted Conveyancing Assistant. Responsible position with good prospects.—Box 6357, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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